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THE
REVISED STATUTES

OF
ONTARIO, 1897,

BEING A
CONSOLIDATION OF THE REVISED STATUTES OF ONTARIO,
1887, WITH THE SUBSEQUENT PUBLIC GENERAL ACTS

OF THE
LEGISLATURE OF ONTARIO.

VOL. I.



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1897.



PRINTERS AND BOOKBINDERS.

THE REVISED STATUTES OF ONTARIO, 1897.

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and Ontario.

PROCLAMATION

BRINGING THE

REVISED STATUTES OF 1897 INTO FORCE.



[L.S.] OLIVER MOWAT.

CANADA.

PROVINCE OF ONTARIO.

VICTORIA, by the grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c., &c., &c.

To all to whom these presents shall come—GREETING.

PROCLAMATION.

ARTHUR S. HARDY, } **W**HEREAS in and by a certain Act of the
Attorney-General. } Legislature of Our Province of Ontario
passed in the Session thereof, held in the sixtieth year of Our Reign, and
entitled "An Act to provide for the Consolidation of the Statutes of
Ontario," after reciting that certain Commissioners for the purpose of
consolidating the Public Statutes of this Province, had been appointed
by the Lieutenant-Governor of Our said Province in Council, it was
amongst other things in effect enacted,

That so soon as the said Commissioners should report, in writing
signed by a majority of them, and by the Chairman, the completion of
the said consolidation, including therein such Acts and parts of Acts
passed during the said Session as Our Lieutenant-Governor might deem
it advisable to be included, Our Lieutenant-Governor might cause
a printed Roll thereof attested under his signature and countersigned
by the Provincial Secretary to be deposited in the office of the Clerk of
the Legislative Assembly ;

That there should be appended to the said Roll a schedule similar in form to Schedule A appended to The Revised Statutes of 1887, showing the Acts and parts of Acts which had been embodied in the said Roll and showing in the third column thereof the extent to which the Acts and parts of Acts in the said Schedule should from the time of the coming into force of the Revised Statutes contained in the said Roll be repealed ; and that the Commissioners might include in the said Schedule all Acts and parts of Acts which, though not expressly repealed, had been superseded by the Acts so consolidated, or were inconsistent therewith, and all parts of such Acts which were for a temporary purpose, the force of which had been spent ;

That the said Commissioners in consolidating the said Statutes might make such alterations in their language as might be requisite in order to preserve a uniform mode of expression, and might make such minor amendments as were necessary to bring out more clearly what they deemed to be the intention of the Legislature, or to correct clerical or typographical errors ; and might also direct that any of the enacting clauses in the said Statutes should be printed in bourgeois type, and that any of the sections which in The Revised Statutes of 1887 are in bourgeois type should be printed among the enacting clauses, and

That Our said Lieutenant-Governor in Council after the deposit as aforesaid of the said Roll might by proclamation declare the day from and after which the same should come into force and have effect as law by the designation of "The Revised Statutes of Ontario, 1897" ; and that on and from such day the same should accordingly come into force and effect by the said designation to all intents as though the same were expressly embodied in and enacted by the said Act to come into force and have effect on and from such day, and that on and from the same day all the enactments in the several Acts and parts of Acts in the said Schedule mentioned should so far as they relate to this Province stand and be repealed to the extent mentioned in the third column of the said Schedule save only as in the said Act thereafter is provided ;

AND WHEREAS Our said Lieutenant-Governor selected such Acts and parts of Acts passed during the said Session of the said Legislature of Our said Province, now last past, as he deemed it advisable to be included in the said consolidation and the same have been incorporated therein ;

AND WHEREAS so soon as the said Commissioners reported in writing, signed by a majority of them and by the Chairman, the completion of the said consolidation and of the said Schedule, Our said Lieutenant-Governor caused a correct printed Roll thereof, attested under his signature and countersigned by the Provincial Secretary with a

correct copy of the said Schedule appended thereto, to be deposited in the office of the Clerk of the Legislative Assembly ;

AND WHEREAS the provisions contained in the first three sections of the said Act have been duly carried into effect;

AND WHEREAS Our said Lieutenant-Governor, by and with the advice and consent of the Executive Council of Our said Province has named the thirty-first day of December, 1897, as the day on, from and after which the said Consolidation as shewn in the said Roll shall come into force and have effect as law by the designation of " The Revised Statutes of Ontario, 1897 " ;

NOW KNOW YE, that by and with the advice of Our Executive Council of Our said Province of Ontario, WE DO by this Our Royal Proclamation, DECLARE that on, from and after the said THIRTY-FIRST day of the month of DECEMBER 1897, the said Roll attested under the signature of Our said Lieutenant-Governor of Our Province of Ontario, countersigned by the Provincial Secretary, and deposited in the office of the Clerk of the Legislative Assembly of the said Province as aforesaid, shall come into force and have effect as law by the designation of " THE REVISED STATUTES OF ONTARIO, 1897," to all intents as though the same were expressly embodied in and enacted by the said Act.

Of all which premises all Our loving subjects of Our said Province and all others whom these presents may concern, are hereby required to take notice and to govern themselves accordingly.

IN TESTIMONY WHEREOF, We have caused these Our Letters to be made Patent and the Great Seal of Our said Province of Ontario to be hereunto affixed : WITNESS, The Honorable SIR OLIVER MOWAT Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, Member of Our Privy Council for Canada, and LIEUTENANT-GOVERNOR of Our Province of Ontario, at Our Government House, in Our CITY OF TORONTO, in Our said Province, this twenty-fourth day of December in the year of Our Lord one thousand eight hundred and ninety-seven and in the Sixty-first year of Our Reign.

By Command,

E. J. DAVIS,

Provincial-Secretary.

STATUTE OF ONTARIO

GIVING EFFECT TO THE REVISED STATUTES, 1897.

60 VICTORIA.

CHAPTER 3.

An Act to provide for the Consolidation of the
Statutes of Ontario.

[Assented to 13th April, 1897.]

Preamble.

WHEREAS by two several Commissions issued by the Lieutenant-Governor in Council dated respectively the 23rd day of May, 1896, and the 12th day of September, 1896, the Honourable John Alexander Boyd, Chancellor of Ontario and President of the High Court of Justice; the Honourable Featherston Osler, one of the Justices of the Court of Appeal; the Honourable John Douglas Armour, Chief Justice of the Queen's Bench; the Honourable James MacLennan, one of the Justices of the Court of Appeal; the Honourable Sir William Ralph Meredith, Chief Justice of the Common Pleas; the Honourable Thomas Ferguson, the Honourable John Edward Rose, and the Honourable William Glenholme Falconbridge, Justices of the High Court; the members of the Executive Council of the Province of Ontario, and James Pliny Whitney, Esquire, Byron Moffatt Britton, Esquire, John Galloway Scott, Esquire, and Thomas Langton, Esquire, of Her Majesty's counsel learned in the law, and Allan Malcolm Dymond, Esquire, Law Clerk of the Legislative Assembly, were appointed Commissioners for the purpose of consolidating the Public Statutes of this Province; and whereas the said the Honourable John Douglas Armour has tendered his resignation as a member of the said Commission, and the said resignation has been accepted; and whereas James Thompson Garrow, Esquire, one of Her Majesty's counsel learned in the law, was, by Commission bearing date the 30th day of March,

1897, added as a Commissioner; and whereas the said Commissioners have not been able to complete the consolidation of the said Statutes, but will complete the same at an early date, except so far as alterations and additions are rendered necessary by the legislation of the present session; and whereas it is in the public interest that the said consolidation should as soon as practicable and prior to the holding of another Session of this Legislature be issued and authorized as the Revised Statutes of this Province.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. So soon as the said Commissioners shall report, in writing, signed by a majority of them, and by the Chairman, the completion of the said consolidation, including therein such Acts and parts of Acts passed during the present Session as the Lieutenant-Governor may deem advisable to be included, the Lieutenant-Governor may cause a printed Roll thereof attested under his signature and countersigned by the Provincial Secretary to be deposited in the office of the Clerk of the Legislative Assembly.

Printed Roll to be deposited with Clerk of Legislative Assembly.

2. There shall be appended to the said Roll a schedule similar in form to Schedule A appended to *The Revised Statutes of 1887*, showing the Acts and parts of Acts which are embodied in the said Roll and showing in the third column thereof the extent to which the Acts and parts of Acts in the said Schedule are from the time of the coming in force of the Revised Statutes contained in the said Roll to be repealed; and the Commissioners may include in the said Schedule all Acts and parts of Acts which, though not expressly repealed, were superseded by the Acts so consolidated, or are inconsistent therewith, and all parts of such Acts which were for a temporary purpose the force of which is spent.

Schedule of Acts repealed.

3. The said Commissioners in consolidating the said statutes may make such alterations in their language as are requisite in order to preserve a uniform mode of expression, and may make such minor amendments as are necessary to bring out more clearly what they deem to be the intention of the Legislature, or to reconcile seemingly inconsistent enactments, or to correct clerical or typographical errors; the said Commissioners may also direct that any of the enacting clauses in the said statutes may be printed in bourgeois type, and that any of the sections which in the Revised Statutes of 1887 are in bourgeois type may be printed among the enacting clauses.

Powers of commissioners as to alterations.

4. The Lieutenant-Governor in Council after the deposit as aforesaid of the said Roll may by proclamation declare the day from and after which the same shall come into force and have

Proclamation declaring Statutes in force.

effect as law by the designation of "The Revised Statutes of Ontario, 1897."

Effect of
proclamation.

5. On and from such day the same shall accordingly come into force and effect by the said designation to all intents as though the same were expressly embodied in and enacted by this Act to come into force and have effect on and from such day; and on and from the same day all the enactments in the several Acts and parts of Acts in the said Schedule mentioned shall so far as they relate to this Province stand and be repealed to the extent mentioned in the third column of the said Schedule save only as hereinafter is provided.

Repeal not
intended to
extend to Acts
over which the
Dominion
Parliament
has jurisdic-
tion.

6. Such repeal shall not be construed as intended to extend to such of the provisions of the said Acts and parts of Acts as relate to subjects in regard to which the Parliament of Canada has exclusive powers of legislation; but the said Acts and parts of Acts (in so far only as is necessary to give effect to every such provision) shall remain in full force and effect, subject however, to section 8 of this Act.

Saving as to
transactions,
etc., anterior
to the repeal.

7. The repeal of the said Acts and parts of Acts shall not revive any Act or provision of law repealed by them, nor shall the said repeal prevent the effect of any saving clause in the said Acts and parts of Acts or the application of any of the said Acts or parts of Acts or of any Act or provision of law formerly in force, to any transaction, matter or thing anterior to the said repeal, to which they would otherwise apply.

Certain mat-
ters anterior
to the repeal
not to be
affected by it
Penalties, etc.

8.—(1) The repeal of the said Acts and parts of Acts shall not affect

(a) Any penalty, forfeiture or liability incurred before the time for such repeal, or any proceedings for enforcing the same, had, done, completed or pending at the time of such repeal.

Actions, etc.

(b) Nor any action, suit, judgment, decree, certificate, execution, process, order, rule, or any proceeding, matter or thing whatever respecting the same, had, done, made, entered, granted, completed, pending, existing, or in force at the time of such repeal.

Acts, deeds,
rights, etc.

(c) Nor any act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, regulation, contract, lien, charge, matter or thing, had, done, made, acquired, established or existing at the time of such repeal.

Offices, etc.

(d) Nor any office, appointment, commission, salary, allowance, security, duty, or any matter or thing appertaining thereto, at the time of such repeal.

(c) Nor any marriage, certificate or registry thereof, law-fully had, made, granted or existing before or at the time of such repeal. Marriages, etc.

(f) Nor shall such repeal defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever, had, done, completed, existing or pending at the time of such repeal. Nor any other matters.

(2) But every such

Penalty, forfeiture and liability, and every such But the same shall remain valid, etc.
 Action, suit, judgment, decree, certificate, execution, prosecution, order, rule, proceeding, matter or thing, and every such

Act, deed, right, title, interest, grant, assurance, descent, will, registry, by-law, rule, regulation, contract, lien, charge, matter or thing, and every such

Office, appointment, commission, salary, allowance, security, and duty, and every such

Marriage, certificate and registry thereof, and every such other matter and thing, and the force and effect thereof, respectively.

may and shall remain and continue as if no such repeal had taken place, and so far as necessary, may and shall be continued, prosecuted, enforced and proceeded with under the said Revised Statutes and other the statutes and laws having force in this Province, so far as applicable thereto, and subject to the provisions of the said several statutes and laws. and may be enforced, etc., and under what laws.

9.—(1) The said Revised Statutes shall not be held to operate as new laws, but shall be construed and have effect as a consolidation of the law as contained in the said Acts and parts of Acts so repealed, and for which the said Revised Statutes are substituted, and the Legislature is not to be deemed to have adopted the construction which may by judicial decision, or otherwise, have been placed upon the language of any of the statutes included amongst the said Revised Statutes. Revised Statutes not to be deemed new laws.

(2) The various provisions in the Revised Statutes corresponding to and substituted for the provisions of the Acts and parts of Acts so repealed, shall, where they are the same in effect as those of the Acts and parts of Acts so repealed, be held to operate retrospectively as well as prospectively, and to have been passed upon the days respectively upon which the Acts and parts of Acts so repealed came into effect. How construed where the same in effect as the repealed Acts.

(3) If upon any point the provisions of the said Revised Statutes are not in effect the same as those of the repealed Acts How construed if in any case they differ

from the repealed Acts.

and parts of Acts for which they are substituted, then as respects all transactions, matters and things, subsequent to the time when the said Revised Statutes take effect, the provisions contained in them shall prevail, but as respects all transactions, matters and things anterior to the said time, the provisions of the said repealed Acts and parts of Acts shall prevail.

Marginal note and headings.

(4) The marginal notes and headings in the body of the said Revised Statutes and references to former enactments, and sections printed in bourgeois type which may appear thereon, shall be held to form no part of the said Statutes but to be inserted for convenience of reference only.

As to reference to repealed Acts in former Acts etc.

10. Any reference in any former Act remaining in force, or in any instrument or document, to any Act or enactment so repealed, shall, after the Revised Statutes take effect, be held, as regards any subsequent transaction, matter or thing, to be a reference to the enactments in the Revised Statutes having the same effect as such repealed Act or enactment.

As to effect of insertion of an Act in Schedule A.

11. The insertion of any Act in the said Schedule A shall not be construed as a declaration that such Act or any part of it was or was not in force immediately before the coming into force of the said Revised Statutes.

Copies printed by Queen's Printer to be evidence.

12. Copies of the said Revised Statutes printed by the Queen's Printer from the roll so deposited, shall be received as evidence of the said Revised Statutes in all Courts and places whatsoever.

As to distribution of copies.

13. The laws relating to the distribution of the printed copies of the Statutes shall not apply to the said Revised Statutes, but the same shall be distributed in such numbers and to such persons only as the Lieutenant-Governor in Council may direct.

This Act to be printed with Revised Statutes.

14. This Act shall be printed with the said Revised Statutes, and shall be subject to the same rules of construction as the said Revised Statutes.

How they may be cited.

15. Any chapter of the said Revised Statutes may be cited and referred to in any Act or proceeding whatever, either by its title as an Act, or by its short title, or by using the expression "*The Revised Statute respecting—*" (adding the remainder of the title given at the beginning of the particular chapter), or by using the expression "*The Revised Statutes of Ontario, 1897, chapter* " (adding the number of the particular chapter in the copies printed by the Queen's Printer).

BRITISH NORTH AMERICA ACT

IMPERIAL ACT 30-31 VICT. Cap. 3.

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for purposes connected therewith.

[29th March, 1867.]

[*The Statute Law Revision Act, 56-57 V. c. 14, (Imp.) repealed, as spent, sections 2, 25, 42, 43, 81, 89, 127 and 145 and also portions of sections 4, 51 and 88.*]

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick, have expressed their desire to be federally united into one Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a constitution similar in principle to that of the United Kingdom:

And whereas such a Union would conduce to the welfare of the Provinces and promote the interests of the British Empire:

And whereas on the establishment of the Union by authority of Parliament it is expedient, not only that the Constitution of the Legislative Authority in the Dominion be provided for, but also that the nature of the Executive Government therein be declared:

And whereas it is expedient that provision be made for the eventual admission into the Union of other parts of British North America:

Be it therefore enacted and declared by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:

I.—PRELIMINARY.

1. This Act may be cited as *The British North America Act, 1867.* Short title.

2. The provisions of this Act referring to Her Majesty the Queen extend also to the heirs and successors of Her Majesty, Application of provisions referring to the Queen.

Kings and Queens of the United Kingdom of Great Britain and Ireland.

II.—UNION.

Declaration by proclamation of Union of Canada, Nova Scotia and New Brunswick, into one Dominion under name of Canada.

3. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, to declare by Proclamation that on and after a day therein appointed, not being more than six months after the passing of this Act, the Provinces of Canada, Nova Scotia, and New Brunswick shall form and be one Dominion under the name of Canada; and on and after that day those three Provinces shall form and be one Dominion under that name accordingly.

Commencement of subsequent provisions of Act.

4. The subsequent provisions of this Act shall, unless it is otherwise expressed or implied, commence and have effect on and after the Union, that is to say, on and after the day appointed for the Union taking effect in the Queen's Proclamation: and in the same provisions, unless it is otherwise expressed or implied, the name Canada shall be taken to mean Canada as constituted under this Act.

Meaning of Canada in such provisions.

Four Provinces.

5. Canada shall be divided into four Provinces, named Ontario, Quebec, Nova Scotia, and New Brunswick.

[Canada now also includes the Provinces of Manitoba, British Columbia and Prince Edward Island and the North West Territories.]

Provinces of Ontario and Quebec.

6. The parts of the Province of Canada (as it exists at the passing of this Act) which formerly constituted respectively the Provinces of Upper Canada and Lower Canada shall be deemed to be severed, and shall form two separate Provinces. The part which formerly constituted the Province of Upper Canada shall constitute the Province of Ontario; and the part which formerly constituted the Province of Lower Canada shall constitute the Province of Quebec.

Provinces of Nova Scotia and New Brunswick.

7. The Provinces of Nova Scotia and New Brunswick shall have the same limits as at the passing of this Act.

Population of Provinces to be distinguished in decennial census.

8. In the general census of the population of Canada which is hereby required to be taken in the year one thousand eight hundred and seventy-one, and in every tenth year thereafter, the respective populations of the four Provinces shall be distinguished.

III.—EXECUTIVE POWER.

Executive Power to continue vested in the Queen.

9. The Executive Government and authority of and over Canada is hereby declared to continue and be vested in the Queen.

Application of provisions referring to Governor-General.

10. The provisions of this Act referring to the Governor General extend and apply to the Governor General for the time being of Canada, or other the Chief Executive Officer or Ad-

ministrator, for the time being carrying on the Government of Canada on behalf and in the name of the Queen, by whatever title he is designated.

11. There shall be a Council to aid and advise in the Government of Canada, to be styled the Queen's Privy Council for Canada; and the persons who are to be members of that Council shall be from time to time chosen and summoned by the Governor General and sworn in as Privy Counsellors, and members thereof may be from time to time removed by the Governor General.

Constitution
of Privy
Council for
Canada.

12. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, Canada Nova Scotia, or New Brunswick, are at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same continue in existence and capable of being exercised after the Union in relation to the Government of Canada, be vested in and exercisable by the Governor General, with the advice or with the advice and consent of or in conjunction with the Queen's Privy Council for Canada, or any members thereof, or by the Governor General individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland) to be abolished or altered by the Parliament of Canada.

All powers
under Acts to
be exercised
by Governor
General with
advice of
Privy Council
or alone.

13. The provisions of this Act referring to the Governor General in Council shall be construed as referring to the Governor General acting by and with the advice of the Queen's Privy Council for Canada.

Application
of provisions
referring to
Governor
General in
Council.

14. It shall be lawful for the Queen, if Her Majesty thinks fit, to authorize the Governor General from time to time to appoint any person or any persons jointly or severally to be his Deputy or Deputies within any part or parts of Canada, and in that capacity to exercise during the pleasure of the Governor General such of the powers, authorities, and functions of the Governor General as the Governor General deems it necessary or expedient to assign to him or them, subject to any limitations or directions expressed or given by the Queen; but the appointment of such a Deputy or Deputies shall not affect the exercise by the Governor General himself of any power, authority or function.

Power to Her
Majesty to
authorize
Governor
General to
appoint
Deputies.

Command of armed forces to continue to be vested in the Queen. **15.** The Command-in-Chief of the Land and Naval Militia, and of all Naval and Military Forces, of and in Canada, is hereby declared to continue and be vested in the Queen.

Seat of Government of Canada. **16.** Until the Queen otherwise directs the seat of Government of Canada shall be Ottawa.

IV.—LEGISLATIVE POWER.

Constitution of Parliament of Canada. **17.** There shall be one Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

[Section 18 was repealed by Imperial Act 38 and 39 Vict. c. 38, and the following section substituted therefor.]

Privileges, etc., of Houses. **18.** The privileges, immunities, and powers to be held, enjoyed and exercised by the Senate and by the House of Commons and by the members thereof respectively shall be such as are from time to time defined by Act of the Parliament of Canada, but so that any Act of the Parliament of Canada defining such privileges, immunities and powers shall not confer any privileges, immunities or powers exceeding those at the passing of such Act held, enjoyed, and exercised by the Commons House of Parliament of the United Kingdom of Great Britain and Ireland and by the members thereof.]

First Session of the Parliament of Canada. **19.** The Parliament of Canada shall be called together not later than six months after the Union.

Yearly Session of the Parliament of Canada. **20.** There shall be a Session of the Parliament of Canada once at least in every year, so that twelve months shall not intervene between the last sitting of the Parliament in one Session and its first sitting in the next Session.

The Senate.

Number of Senators. **21.** The Senate shall, subject to the provisions of this Act, consist of seventy-two members, who shall be styled Senators.

[The Senate now consists of 81 members and includes representatives of the Provinces of Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, and Prince Edward Island and of the North West Territories.]

Representation of Provinces in Senate. **22.** In relation to the constitution of the Senate, Canada shall be deemed to consist of three divisions—

1. Ontario;

2. Quebec;

3. The Maritime Provinces, Nova Scotia and New Brunswick; which three divisions shall (subject to the provisions of this Act) be equally represented in the Senate as follows: Ontario by twenty-four Senators; Quebec by twenty-four Senators; and the Maritime Provinces by twenty-four Senators, twelve thereof representing Nova Scotia, and twelve thereof representing New Brunswick.

In the case of Quebec each of the twenty-four Senators representing that Province shall be appointed for one of the twenty-four Electoral Divisions of Lower Canada specified in Schedule A. to chapter one of the Consolidated Statutes of Canada.

23. The qualification of a Senator shall be as follows :— Qualifications of Senator.

1. He shall be of the full age of thirty years :
2. He shall be either a natural-born subject of the Queen, or a subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of one of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union.
3. He shall be legally or equitably seised as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seised or possessed for his own use and benefit of lands or tenements held in franc-aleu or in roture, within the Province for which he is appointed, of the value of \$4,000, over and above all rents, dues, debts, charges, mortgages, and incumbrances due or payable out of or charged on or affecting the same :
4. His real and personal property shall be together worth \$4,000 over and above his debts and liabilities :
5. He shall be resident in the Province for which he is appointed :
6. In the case of Quebec he shall have his real property qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

24. The Governor General shall from time to time, in the Queen's name, by instrument under the Great Seal of Canada, summon qualified persons to the Senate ; and, subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a Senator. Summoning of Senators.

25. Such persons shall be first summoned to the Senate as the Queen by warrant under Her Majesty's Royal Sign Manual thinks fit to approve, and their names shall be inserted in the Queen's Proclamation of Union. Summons of first body of Senators.

26. If at any time on the recommendation of the Governor-General the Queen thinks fit to direct that three or six members be added to the Senate, the Governor General may by summons to three or six qualified persons (as the case may be), representing equally the three divisions of Canada, add to the Senate accordingly. Addition of Senators in certain cases.

Reduction of
Senate to
normal num-
ber.

27. In case of such addition being at any time made the Governor General shall not summon any person to the Senate, except on a further like direction by the Queen on the like recommendation, until each of the three divisions of Canada is represented by twenty-four Senators and no more.

Maximum
number of
Senators.

28. The number of Senators shall not at any time exceed seventy-eight.

[See note appended to section 21]

Tenure of place
in Senate.

29. A Senator shall, subject to the provisions of this Act, hold his place in the Senate for life.

Resignation of
place in
Senate.

30. A Senator may by writing under his hand addressed to the Governor General resign his place in the Senate, and thereupon the same shall be vacant.

Disqualifica-
tion of
Senators.

31. The place of a Senator shall become vacant in any of the following cases :

1. If for two consecutive Sessions of the Parliament he fails to give his attendance in the Senate :
2. If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience, or adherence to a foreign power, or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign power :
3. If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter :
4. If he is attainted of treason or convicted of felony or of any infamous crime :
5. If he ceases to be qualified in respect of property or of residence ; provided, that a Senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the seat of the Government of Canada while holding an office under that Government requiring his presence there.

Summons on
vacancy in
Senate.

32. When a vacancy happens in the Senate by resignation, death, or otherwise, the Governor General shall by summons to a fit and qualified person fill the vacancy.

Questions as to
qualifications
and vacancies
in Senate.

33. If any question arises respecting the qualification of a Senator or a vacancy in the Senate the same shall be heard and determined by the Senate.

Appointment
of Speaker of
Senate.

34. The Governor General may from time to time, by instrument under the Great Seal of Canada, appoint a Senator to be Speaker of the Senate, and may remove him and appoint another in his stead.

35. Until the Parliament of Canada otherwise provides, the presence of at least fifteen Senators, including the Speaker, shall be necessary to constitute a meeting of the Senate for the exercise of its powers. Quorum of Senate.

36. Questions arising in the Senate, shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative. Voting in Senate.

The House of Commons.

37. The House of Commons shall, subject to the provisions of this Act, consist of one hundred and eighty-one members, of whom eighty-two shall be elected for Ontario, sixty-five for Quebec, nineteen for Nova Scotia, and fifteen for New Brunswick. Constitution of House of Commons in Canada.

[The number of members is now 213, the Province of Ontario having 92, Quebec 65, Nova Scotia 20, New Brunswick 14, Prince Edward Island 5, British Columbia 6, Manitoba 7, and the North West Territories 4. See Rev. Stats. C., 1886, Chaps. 6 and 7; 55-56 V. Chap. 11.]

38. The Governor General shall from time to time, in the Queen's name, by instrument under the Great Seal of Canada, summon and call together the House of Commons. Summoning of House of Commons.

39. A Senator shall not be capable of being elected or sitting or voting as a member of the House of Commons. Senators not to sit in House of Commons.

40. Until the Parliament of Canada otherwise provides, Ontario, Quebec, Nova Scotia, and New Brunswick shall, for the purposes of the election of members to serve in the House of Commons, be divided into Electoral Districts as follows:— Electoral districts of the four Provinces

1.—ONTARIO.

Ontario shall be divided into the Counties, Ridings of Counties, Cities, parts of Cities, and Towns enumerated in the first Schedule to this Act, each whereof shall be an Electoral District, each such District as numbered in that Schedule being entitled to return one member.

2.—QUEBEC.

Quebec shall be divided into sixty-five Electoral Districts, composed of the sixty-five Electoral Divisions into which Lower Canada is at the passing of this Act divided under chapter two of the Consolidated Statutes of Canada, chapter seventy-five

of the Consolidated Statutes of Lower Canada, and the Act of the Province of Canada of the twenty-third year of the Queen, chapter one, or any other Act amending the same in force at the Union, so that each such Electoral Division shall be for the purposes of this Act an Electoral District entitled to return one member.

3.—NOVA SCOTIA.

Each of the eighteen Counties of Nova Scotia shall be an Electoral District. The County of Halifax shall be entitled to return two members, and each of the other Counties one member.

4.—NEW BRUNSWICK.

Each of the fourteen Counties into which New Brunswick is divided, including the City and County of St. John, shall be an Electoral District; the City of St. John shall also be a separate Electoral District. Each of those fifteen Electoral Districts shall be entitled to return one member.

[The above provisions as to the electoral districts of the Provinces above named have been varied by subsequent Statutes of the Parliament of Canada.]

Continuance
of existing
election laws
until Parlia-
ment of Cana-
da otherwise
provides.

41. Until the Parliament of Canada otherwise provides, all laws in force in the several Provinces at the Union relative to the following matters or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the House of Assembly or Legislative Assembly in the several Provinces, the voters at elections of such members, the oaths to be taken by voters, the Returning Officers, their powers and duties, the proceedings at elections, the periods during which elections may be continued, the trial of controverted elections, and proceedings incident thereto, the vacating of seats of members, and the execution of new writs in case of seats vacated otherwise than by dissolution,—shall respectively apply to elections of members to serve in the House of Commons for the same several Provinces.

Provided that, until the Parliament of Canada otherwise provides, at any election for a Member of the House of Commons for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject aged twenty-one years or upwards, being a householder, shall have a vote.

[See Rev. Stat. C., 1886, Chaps. 5, 8 and 9 and subsequent Acts amending these Statutes.]

42. For the first election of members to serve in the House of Commons the Governor-General shall cause writs to be issued by such person, in such form, and addressed to such Returning Officers as he thinks fit. Writs for first election.

The person issuing writs under this section shall have the like powers as are possessed at the Union by the officers charged with the issuing of writs for the election of members to serve in the respective House of Assembly or Legislative Assembly of the Province of Canada, Nova Scotia, or New Brunswick; and the Returning Officers to whom writs are directed under this section shall have the like powers as are possessed at the Union by the officers charged with the returning of writs for the election of members to serve in the same respective House of Assembly or Legislative Assembly.

43. In case a vacancy in the representation in the House of Commons of any Electoral District happens before the meeting of the Parliament, or after the meeting of the Parliament before provision is made by the Parliament in this behalf, the provisions of the last foregoing section of this Act shall extend and apply to the issuing and returning of a writ in respect of such vacant District. As to vacancies before meeting of Parliament or before provision is made by Parliament in this behalf.

44. The House of Commons on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be Speaker. As to election of Speaker of House of Commons.

45. In case of a vacancy happening in the office of Speaker by death, resignation or otherwise, the House of Commons shall with all practicable speed proceed to elect another of its members to be Speaker. As to filling up vacancy in office of Speaker.

46. The Speaker shall preside at all meetings of the House of Commons. Speaker to preside.

[See 48-49 V. c. 1 (*Dom.*) which creates the office of Deputy Speaker.]

47. Until the Parliament of Canada otherwise provides, in case of the absence for any reason of the Speaker from the chair of the House of Commons for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall during the continuance of such absence of the Speaker have and execute all the powers, privileges, and duties of Speaker. Provision in case of absence of Speaker.

48. The presence of at least twenty members of the House of Commons shall be necessary to constitute a meeting of the House for the exercise of its powers, and for that purpose the Speaker shall be reckoned as a member. Quorum of House of Commons.

49. Questions arising in the House of Commons shall be decided by a majority of voices other than that of the Speaker and when the voices are equal, but not otherwise, the Speaker shall have a vote. Voting in House of Commons.

Duration of
House of Com-
mons.

50. Every House of Commons shall continue for five years from the day of the return of the writs for choosing the House (subject to be sooner dissolved by the Governor General), and no longer.

Decennial Re-
adjustment of
Representation.

51. On the completion of the census in the year one thousand eight hundred and seventy-one, and of each subsequent decennial census, the representation of the four Provinces shall be re-adjusted by such authority, in such manner and from such time as the Parliament of Canada from time to time provides, subject and according to the following rules:—

1. Quebec shall have the fixed number of sixty-five members :
2. There shall be assigned to each of the other Provinces such a number of members as will bear the same proportion to the number of its population (ascertained at such census) as the number sixty-five bears to the number of the population of Quebec (so ascertained) :
3. In the computation of the number of members for a Province a fractional part not exceeding one-half of the whole number requisite for entitling the Province to a member shall be disregarded ; but a fractional part exceeding one-half of that number shall be equivalent to the whole number :
4. On any such re-adjustment the number of members for a Province shall not be reduced unless the proportion which the number of the population of the Province bore to the number of the aggregate population of Canada at the then last preceding re-adjustment of the number of members for the Province is ascertained at the then latest census to be diminished by one-twentieth part or upwards :
5. Such re-adjustment shall not take effect until the termination of the then existing Parliament.

[See now *Rev. Stat. C., 1886, Cap. 6.*]

Increase of
number of
House of Com-
mons.

52. The number of members of the House of Commons may be from time to time increased by the Parliament of Canada, provided the proportionate representation of the Provinces prescribed by this Act is not thereby disturbed.

Money Votes ; Royal Assent.

Appropriation
and tax bills.

53. Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons.

Recommendation
of money
votes.

54. It shall not be lawful for the House of Commons to adopt or pass any vote, resolution, address, or bill for the

appropriation of any part of the public revenue, or of any tax or impost, to any purpose that has not been first recommended to that House by message of the Governor-General in the Session in which such vote, resolution, address, or bill is proposed.

55. Where a bill passed by the Houses of the Parliament is presented to the Governor General for the Queen's assent, he shall declare according to his discretion, but subject to the provisions of this Act and to Her Majesty's instructions, either that he assents thereto in the Queen's name, or that he withholds the Queen's assent, or that he reserves the bill for the signification of the Queen's pleasure.

Royal assent
to bills, &c.

56. Where the Governor General assents to a bill in the Queen's name, he shall by the first convenient opportunity send an authentic copy of the Act to one of her Majesty's Principal Secretaries of State: and if the Queen in Council within two years after the receipt thereof by the Secretary of State thinks fit to disallow the Act, such disallowance (with a certificate of the Secretary of State of the day on which the Act was received by him) being signified by the Governor General, by speech or message to each of the Houses of the Parliament, or by proclamation, shall annul the Act from and after the day of such signification.

Disallowance
by order in
Council of Act
assented to by
Governor
General.

57. A bill reserved for the signification of the Queen's pleasure shall not have any force unless and until within two years from the day on which it was presented to the Governor General for the Queen's assent, the Governor General signifies, by speech or message to each of the Houses of the Parliament or by proclamation, that it has received the assent of the Queen in Council.

Signification
of Queen's
pleasure on
bill reserved.

An entry of every such speech, message, or proclamation shall be made in the Journal of each House, and a duplicate thereof duly attested shall be delivered to the proper officer to be kept among the Records of Canada.

V.—PROVINCIAL CONSTITUTIONS.

Executive Power.

58. For each Province there shall be an officer, styled the Lieutenant Governor, appointed by the Governor General in Council by instrument under the Great Seal of Canada.

Appointment
of Lieutenant
Governors of
Provinces.

59. A Lieutenant Governor shall hold office during the pleasure of the Governor General; but any Lieutenant Governor appointed after the commencement of the first Session of the Parliament of Canada shall not be removable within five years from his appointment, except for cause assigned, which shall be communicated to him in writing within one month after

Tenure of office
of Lieutenant
Governor.

the order for his removal is made, and shall be communicated by message to the Senate and to the House of Commons within one week thereafter if the Parliament is then sitting, and if not then within one week after the commencement of the next Session of the Parliament.

Salaries of
Lieutenant
Governors.

60. The salaries of the Lieutenant Governors shall be fixed and provided by the Parliament of Canada.

Oaths, etc., of
Lieutenant
Governor.

61. Every Lieutenant Governor shall, before assuming the duties of his office, make and subscribe before the Governor General or some person authorized by him, oaths of allegiance and office similar to those taken by the Governor General.

Application of
provisions re-
ferring to
Lieutenant
Governor.

62. The provisions of this Act referring to the Lieutenant Governor extend and apply to the Lieutenant Governor for the time being of each Province or other the chief executive officer or administrator for the time being carrying on the government of the Province, by whatever title he is designated.

Appointment
of executive
officers for On-
tario and Que-
bec.

63. The Executive Council of Ontario and of Quebec shall be composed of such persons as the Lieutenant Governor from time to time thinks fit, and in the first instance of the following officers, namely:—The Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, within Quebec, the Speaker of the Legislative Council and the Solicitor General.

[*See now, as to Ontario, Rev. Stat. Ont., 1897, Cap. 14.*]

Executive
Government
of Nova Scotia
and New
Brunswick.

64. The Constitution of the Executive Authority in each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act.

All powers
under Acts
to be exercised
by Lieutenant
Governor of
Ontario or
Quebec with
advice of
Executive
Council or
alone.

65. All powers, authorities, and functions which under any Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of Upper Canada, Lower Canada, or Canada, were or are before or at the Union vested in or exercisable by the respective Governors or Lieutenant Governors of those Provinces, with the advice, or with the advice and consent, of the respective Executive Councils thereof, or in conjunction with those Councils, or with any number of members thereof, or by those Governors or Lieutenant Governors individually, shall, as far as the same are capable of being exercised after the Union in relation to the Government of Ontario and Quebec respectively, be vested in and shall or may be exercised by the Lieutenant Governor of Ontario and Quebec respectively, with the advice or with the advice and consent of or in conjunction with the respective Executive Councils, or any members thereof,

or by the Lieutenant Governor individually, as the case requires, subject nevertheless (except with respect to such as exist under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be abolished or altered by the respective Legislatures of Ontario and Quebec.

66. The provisions of this Act referring to the Lieutenant Governor in Council shall be construed as referring to the Lieutenant Governor of the Province acting by and with the advice of the Executive Council thereof.

Application of provisions referring to Lieutenant-Governor in Council.

67. The Governor General in Council may from time to time appoint an administrator to execute the office and functions of Lieutenant Governor during his absence, illness, or other inability.

Administration in absence etc., of Lieutenant-Governor.

68. Unless and until the Executive Government of any Province otherwise directs with respect to that Province, the seats of Government of the Provinces shall be as follows, namely,—of Ontario, the City of Toronto; of Quebec, the City of Quebec; of Nova Scotia, the City of Halifax; and of New Brunswick, the City of Fredericton.

Seats of Provincial Governments.

Legislative Power.

1.—ONTARIO.

69. There shall be a Legislature for Ontario consisting of the Lieutenant Governor and of one House, styled the Legislative Assembly of Ontario.

Legislature for Ontario.

70. The Legislative Assembly of Ontario shall be composed of eighty-two members, to be elected to represent the eighty-two Electoral Districts set forth in the first Schedule to this Act.

Electoral districts.

[The number of members is now 93, representing 92 Electoral Districts. See Rev. Stat. Ont., 1897, Cap. 6.]

2.—QUEBEC.

71. There shall be a Legislature for Quebec consisting of the Lieutenant Governor and of two Houses, styled the Legislative Council of Quebec and the Legislative Assembly of Quebec.

Legislature for Quebec.

72. The Legislative Council of Quebec shall be composed of twenty-four members, to be appointed by the Lieutenant Governor in the Queen's name, by instrument under the Great Seal of Quebec, one being appointed to represent each of the twenty-four electoral divisions of Lower Canada in this Act.

Constitution of Legislative Council.

referred to, and each holding office for the term of his life, unless the Legislature of Quebec otherwise provides under the provisions of this Act.

Qualification
of Legislative
Councillors.

73. The qualifications of the Legislative Councillors of Quebec shall be the same as those of the Senators for Quebec.

Resignation,
Disqualifica-
tion, etc.

74. The place of a Legislative Councillor of Quebec shall become vacant in the cases *mutatis mutandis*, in which the place of Senator becomes vacant.

Vacancies.

75. When a vacancy happens in the Legislative Council of Quebec, by resignation, death, or otherwise, the Lieutenant-Governor, in the Queen's name by instrument under the Great Seal of Quebec, shall appoint a fit and qualified person to fill the vacancy.

Questions as
to Vacancies,
etc.

76. If any question arises respecting the qualification of a Legislative Councillor of Quebec, or a vacancy in the Legislative Council of Quebec, the same shall be heard and determined by the Legislative Council.

Speaker of
Legislative
Council.

77. The Lieutenant Governor may from time to time, by instrument under the Great Seal of Quebec, appoint a member of the Legislative Council of Quebec to be Speaker thereof, and may remove him and appoint another in his stead.

Quorum of
Legislative
Council.

78. Until the Legislature of Quebec otherwise provides, the presence of at least ten members of the Legislative Council, including the Speaker, shall be necessary to constitute a meeting for the exercise of its powers.

Voting in
Legislative
Council.

79. Questions arising in the Legislative Council of Quebec shall be decided by a majority of voices, and the Speaker shall in all cases have a vote, and when the voices are equal the decision shall be deemed to be in the negative.

Constitution
of Legislative
Assembly of
Quebec.

80. The Legislative Assembly of Quebec shall be composed of sixty-five members, to be elected to represent the sixty-five electoral divisions or districts of Lower Canada in this Act referred to, subject to alteration thereof by the Legislature of Quebec: Provided that it shall not be lawful to present to the Lieutenant Governor of Quebec for assent any bill for altering the limits of any of the Electoral Divisions or Districts mentioned in the second Schedule to this Act, unless the second and third readings of such bill have been passed in the Legislative Assembly with the concurrence of the majority of the members representing all those Electoral Divisions or Districts and the assent shall not be given to such bills unless an address has been presented by the Legislative Assembly to the Lieutenant Governor stating that it has been so passed.

3.—ONTARIO AND QUEBEC.

81. The Legislatures of Ontario and Quebec respectively shall be called together not later than six months after the Union. First Session of Legislative Assemblies.

82. The Lieutenant Governor of Ontario and of Quebec shall from time to time, in the Queen's name, by instrument under the Great Seal of the Province, summon and call together the Legislative Assembly of the Province. Summoning of Legislative Assemblies.

83. Until the Legislature of Ontario or of Quebec otherwise provides, a person accepting or holding in Ontario or in Quebec any office, commission, or employment permanent or temporary, at the nomination of the Lieutenant Governor, to which an annual salary, or any fee, allowance, emolument, or profit of any kind or amount whatever from the Province is attached, shall not be eligible as a member of the Legislative Assembly of the respective Province, nor shall he sit or vote as such; but nothing in this section shall make ineligible any person being a member of the Executive Council of the respective Province, or holding any of the following offices, that is to say, the offices of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, and Commissioner of Agriculture and Public Works, and, in Quebec, Solicitor-General, or shall disqualify him to sit or vote in the House for which he is elected, provided he is elected while holding such office. Restriction on election of holders of offices.

[Acts have since been passed with the view of further securing the independence of the Legislative Assembly of Ontario. See Rev. Stat. Ont., 1897, Cap. 11, ss. 6 to 17.]

84. Until the Legislatures of Ontario and Quebec respectively otherwise provide, all laws which at the Union are in force in those Provinces respectively, relative to the following matters, or any of them, namely,—the qualifications and disqualifications of persons to be elected or to sit or vote as members of the Assembly of Canada, the qualifications or disqualifications of voters, the oaths to be taken by voters, the Returning Officers, their powers and duties, the proceedings at elections, the periods during which such elections may be continued, and the trial of controverted elections and the proceedings incident thereto, the vacating of the seats of members and the issuing and execution of new writs in case of seats vacated otherwise than by dissolution, shall respectively apply to elections of members to serve in the respective Legislative Assemblies of Ontario and Quebec. Continuance of existing election laws.

[See now as to Ontario Rev. Stat. Ont., 1897, Chaps. 9 and 11.]

Provided that until the Legislature of Ontario otherwise provides, at any election for a member of the Legislative

Assembly of Ontario for the District of Algoma, in addition to persons qualified by the law of the Province of Canada to vote, every male British subject, aged twenty-one years or upwards, being a householder, shall have a vote.

[*See now Rev. Stat. Ont., 1897, Cap. 9, ss. 9-15.*]

Duration of
Legislative
Assemblies.

85. Every Legislative Assembly of Ontario and every Legislative Assembly of Quebec shall continue for four years from the day of the return of the writs for choosing the same (subject nevertheless to either the Legislative Assembly of Ontario or the Legislative Assembly of Quebec being sooner dissolved by the Lieutenant Governor of the Province), and no longer.

[*See now, as to Ontario, Rev. Stat. Ont., 1897, Cap. 12, s. 3.*]

Yearly Ses-
sions of Legis-
lature.

86. There shall be a session of the Legislature of Ontario and of that of Quebec once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in each Province in one session and its first sitting in the next session.

[*See now, as to Ontario, Rev. Stat. Ont., 1897, Cap. 12, s. 4.*]

Speaker,
Quorum, etc.

87. The following provisions of this Act respecting the House of Commons of Canada, shall extend and apply to the Legislative Assemblies of Ontario and Quebec, that is to say,—the provisions relating to the election of a Speaker originally and on vacancies, the duties of the Speaker, the absence of the Speaker, the quorum, and the mode of voting, as if those provisions were here re-enacted and made applicable in terms to each such Legislative Assembly.

[*See sections 44, 45, 46, 47, 48 and 49 of this Act, and as to Ontario, Rev. Stat., Ont., 1897, Cap. 12, ss. 38-45, 65 and 66.*]

4.—NOVA SCOTIA AND NEW BRUNSWICK.

Constitutions
of Legislatures
of Nova Scotia
and New
Brunswick.

88. The constitution of the Legislature of each of the Provinces of Nova Scotia and New Brunswick shall, subject to the provisions of this Act, continue as it exists at the Union until altered under the authority of this Act; and the House of Assembly of New Brunswick existing at the passing of this Act shall, unless sooner dissolved, continue for the period for which it was elected.

5.—ONTARIO, QUEBEC, AND NOVA SCOTIA.

First elections.

89. Each of the Lieutenant Governors of Ontario, Quebec, and Nova Scotia shall cause writs to be issued for the first election of members of the Legislative Assembly thereof in such form and by such person as he thinks fit, and at such time and addressed to such Returning Officer as the Governor

General directs, and so that the first election of member of Assembly for any Electoral District or any subdivision thereof shall be held at the same time and at the same places as the election for a member to serve in the House of Commons of Canada for that Electoral District.

6.—THE FOUR PROVINCES.

90. The following provisions of this Act respecting the Parliament of Canada, namely,—the provisions relating to appropriation and tax bills, the recommendation of money votes, the assent to bills, the disallowance of Acts, and the signification of pleasure on bills reserved,—shall extend and apply to the Legislatures of the several Provinces as if those provisions were here re-enacted and made applicable in terms to the respective Provinces and the Legislatures thereof, with the substitution of the Lieutenant Governor of the Province for the Governor-General, of the Governor General for the Queen and for a Secretary of State, of one year for two years, and of the Province for Canada.

Application to
Legislatures of
provisions
respecting
money votes,
etc.

VI.—DISTRIBUTION OF LEGISLATIVE POWERS.

Powers of the Parliament.

91. It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order, and good government of Canada, in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater certainty, but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared that (notwithstanding anything in this Act) the exclusive legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects next hereinafter enumerated; that is to say:—

Legislative
authority of
Parliament
Canada.

1. The Public Debt and Property.
2. The regulation of Trade and Commerce.
3. The raising of money by any mode or system of Taxation.
4. The borrowing of money on the public credit.
5. Postal service.
6. The Census and Statistics.
7. Militia, Military and Naval Service and Defence.
8. The fixing of and providing for the salaries and allowances of civil and other officers of the Government of Canada.

9. Beacons, Buoys, Lighthouses, and Sable Island.
10. Navigation and Shipping.
11. Quarantine and the establishment and maintenance of Marine Hospitals.
12. Sea coast and inland Fisheries.
13. Ferries between a Province and any British or Foreign country or between two Provinces.
14. Currency and Coinage.
15. Banking, incorporation of banks, and the issue of paper money.
16. Savings' Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.
20. Legal tender.
21. Bankruptcy and Insolvency.
22. Patents of invention and discovery.
23. Copyrights.
24. Indians, and lands reserved for the Indians.
25. Naturalization and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such classes of subjects as are expressly excepted in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any matter coming within any of the classes of subjects enumerated in this section shall not be deemed to come within the class of matters of a local or private nature comprised in the enumeration of the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces.

Exclusive Powers of Provincial Legislatures.

92. In each Province the Legislature may exclusively make laws in relation to matters coming within the classes of subjects next hereinafter enumerated, that is to say,—

Subjects of
exclusive Pro-
vincial Legis-
lation.

1. The Amendment from time to time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the office of Lieutenant Governor.
2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial purposes.
3. The borrowing of money on the sole credit of the Province.
4. The establishment and tenure of Provincial offices and the appointment and payment of Provincial officers.
5. The management and sale of the Public Lands belonging to the Province and of the timber and wood thereon.
6. The establishment, maintenance, and management of public and reformatory prisons in and for the Province.
7. The establishment, maintenance, and management of hospitals, asylums, charities, and eleemosynary institutions in and for the Province, other than marine hospitals.
8. Municipal institutions in the Province.
9. Shop, saloon, tavern, auctioneer, and other licences in order to the raising of a revenue for Provincial, local, or municipal purposes.
10. Local works and undertakings other than such as are of the following classes,—
 - a. Lines of steam or other ships, railways, canals, telegraphs, and other works and undertakings connecting the Province with any other or others of the Provinces, or extending beyond the limits of the Province:
 - b. Lines of steam ships between the Province and any British or foreign country:
 - c. Such works as, although wholly situate within the Province, are before or after their execution declared by the Parliament of Canada to be for the general advantage of Canada or for the advantage of two or more of the Provinces.
11. The incorporation of companies with Provincial objects.
12. The solemnization of marriage in the Province.
13. Property and civil rights in the Province.

14. The administration of justice in the Province, including the constitution, maintenance, and organization of Provincial Courts, both of civil and of criminal jurisdiction, and including procedure in civil matters in those Courts.
15. The imposition of punishment by fine, penalty, or imprisonment for enforcing any law of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.
16. Generally all matters of a merely local or private nature in the Province.

Education.

Legislation
respecting
education.

93. In and for each Province the Legislature may exclusively make laws in relation to education, subject and according to the following provisions :—

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law in the Province at the Union.
2. All the powers, privileges, and duties at the union by law conferred and imposed in Upper Canada on the separate schools and school trustees of the Queen's Roman Catholic subjects shall be and the same are hereby extended to the dissentient schools of the Queen's Protestant and Roman Catholic subjects in Quebec.
3. Where in any Province a system of separate or dissentient schools exists by law at the Union or is thereafter established by the Legislature of the Province, an appeal shall lie to the Governor General in Council from any Act or decision of any Provincial authority affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education.
4. In case any such Provincial law as from time to time seems to the Governor General in Council requisite for the due execution of the provisions of this section is not made, or in case any decision of the Governor General in Council on any appeal under this section is not duly executed by the proper Provincial authority in that behalf, then and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section and of any decision of the Governor General in Council under this section.

Uniformity of Laws in Ontario, Nova Scotia and New Brunswick.

94. Notwithstanding anything in this Act, the Parliament of Canada may make provision for the uniformity of all or any of the laws relative to property and civil rights in Ontario, Nova Scotia and New Brunswick, and of the procedure of all or any of the Courts in those three Provinces; and from and after the passing of any Act in that behalf the power of the Parliament of Canada to make laws in relation to any matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of Canada making provision for such uniformity shall not have effect in any Province unless and until it is adopted and enacted as law by the Legislature thereof.

Legislation for uniformity of laws in the three Provinces as to property and civil rights and uniformity of procedure in Courts.

Agriculture and Immigration.

95. In each Province the Legislature may make laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of Canada may from time to time make laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of Canada.

Concurrent powers of Legislation respecting Agriculture and immigration.

VII.—JUDICATURE.

96. The Governor General shall appoint the Judges of the Superior, District, and County Courts in each Province, except those of the Courts of Probate in Nova Scotia and New Brunswick.

Appointment of Judges.

97. Until the laws relative to property and civil rights in Ontario, Nova Scotia, and New Brunswick, and the procedure of the Courts in those Provinces, are made uniform, the Judges of the Courts of those Provinces appointed by the Governor General shall be selected from the respective Bars of those Provinces.

Selection of Judges in Ontario, etc.

98. The Judges of the Courts of Quebec shall be selected from the Bar of that Province.

Selection of Judges in Quebec.

99. The Judges of the Superior Courts shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons.

Tenure of office of Judges of Superior Courts.

100. The salaries, allowances and pensions of the Judges of the Superior, District, and County Courts (except the Courts

Salaries, etc., of Judges.

of Probate in Nova Scotia and New Brunswick), and of the Admiralty Courts in cases where the Judges thereof are for the time being paid by salary, shall be fixed and provided by the Parliament of Canada.

General Court
of Appeal,
etc.

101. The Parliament of Canada may, notwithstanding anything in this Act, from time to time, provide for the constitution, maintenance, and organization of a general Court of Appeal for Canada, and for the establishment of any additional Courts for the better administration of the Laws of Canada.

VIII.—REVENUES; DEBTS; ASSETS; TAXATION.

Creation of
Consolidated
Revenue
Fund.

102. All duties and revenues over which the respective Legislatures of Canada, Nova Scotia, and New Brunswick before and at the Union had and have power of appropriation, except such portions thereof as are by this Act reserved to the respective Legislatures of the Provinces, or are raised by them in accordance with the special powers conferred on them by this Act, shall form one Consolidated Revenue Fund, to be appropriated for the public service of Canada in the manner and subject to the charges in this Act provided.

Expenses of
collection, etc.

103. The Consolidated Revenue Fund of Canada shall be permanently charged with the costs, charges, and expenses incident to the collection, management, and receipt thereof, and the same shall form the first charge thereon, subject to be reviewed and audited in such manner as shall be ordered by the Governor General in Council until the Parliament otherwise provides.

Interest of
Provincial
public debts.

104. The annual interest of the public debts of the several Provinces of Canada, Nova Scotia and New Brunswick at the Union shall form the second charge on the Consolidated Revenue Fund of Canada.

Salary of
Governor-
General.

105. Unless altered by the Parliament of Canada, the salary of the Governor General shall be ten thousand pounds sterling money of the United Kingdom of Great Britain and Ireland, payable out of the Consolidated Revenue Fund of Canada, and the same shall form the third charge thereon.

Appropriation
of fund subject
to charges.

106. Subject to the several payments by this Act charged on the Consolidated Revenue Fund of Canada, the same shall be appropriated by the Parliament of Canada for the public service.

Transfer to
Canada of
stocks, etc.,
belonging to
two Provinces.

107. All stocks, cash, banker's balances, and securities for money belonging to each Province at the time of the Union, except as in this Act mentioned, shall be the property of Canada, and shall be taken in reduction of the amount of the respective debts of the Provinces at the Union.

108. The public works and property of each Province, enumerated in the third schedule to this Act, shall be the property of Canada.

Transfer of property in schedule.

109. All lands, mines, minerals, and royalties belonging to the several Provinces of Canada, Nova Scotia and New Brunswick at the Union, and all sums then due or payable for such lands, mines, minerals, or royalties, shall belong to the several Provinces of Ontario, Quebec, Nova Scotia and New Brunswick in which the same are situate or arise, subject to any trusts existing in respect thereof, and to any interest other than that of the Province in the same.

Lands, mines, etc., belonging to Provinces to belong to them.

110. All assets connected with such portions of the public debt of each Province as are assumed by that Province shall belong to that Province.

Assets connected with Provincial debts.

111. Canada shall be liable for the debts and liabilities of each Province existing at the Union.

Canada to be liable for Provincial debts.

112. Ontario and Quebec conjointly shall be liable to Canada for the amount (if any) by which the debt of the Province of Canada exceeds at the Union \$62,500,000, and shall be charged with interest at the rate of five per centum per annum thereon.

Liability of Ontario and Quebec to Canada.

113. The assets enumerated in the fourth Schedule to this Act belonging at the Union to the Province of Canada shall be the property of Ontario and Quebec conjointly.

Assets of Ontario and Quebec.

114. Nova Scotia shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union \$8,000,000, and shall be charged with interest at the rate of five per centum per annum thereon.

Liability of Nova Scotia to Canada.

115. New Brunswick shall be liable to Canada for the amount (if any) by which its public debt exceeds at the Union \$7,000,000, and shall be charged with interest at the rate of five per centum per annum thereon.

Liability of New Brunswick to Canada.

116. In case the public debt of Nova Scotia and New Brunswick do not at the Union amount to \$8,000,000 and \$7,000,000 respectively, they shall respectively receive by half-yearly payments in advance from the Government of Canada interest at five per centum per annum on the difference between the actual amounts of their respective debts and such stipulated amounts.

Payment of interest to Nova Scotia and New Brunswick if their public debts are less than the stipulated amounts.

117. The several Provinces shall retain all their respective public property not otherwise disposed of in this Act, subject to the right of Canada to assume any lands or public property required for fortifications or for the defence of the country.

Provincial public property.

Grants to
Provinces.

118. The following sums shall be paid yearly by Canada to the several Provinces for the support of their Governments and Legislatures :—

					Dollars.
Ontario	-	-	-	-	Eighty thousand.
Quebec	-	-	-	-	Seventy thousand.
Nova Scotia	-	-	-	-	Sixty thousand.
New Brunswick	-	-	-	-	Fifty thousand.

Two hundred and sixty thousand.

and an annual grant in aid of each Province shall be made, equal to eighty cents per head of the population as ascertained by the Census of 1861, and in the case of Nova Scotia and New Brunswick, by each subsequent decennial census until the population of each of those two Provinces amounts to four hundred thousand souls, at which rate such grant shall thereafter remain. Such grants shall be in full settlement of all future demands on Canada, and shall be paid half-yearly in advance to each Province; but the Government of Canada shall deduct from such grants, as against any Province, all sums chargeable as interest on the Public Debt of that Province in excess of the several amounts stipulated in this Act.

Further grant
to New
Brunswick
for ten years.

119. New Brunswick shall receive by half-yearly payments in advance from Canada, for the period of ten years from the Union an additional allowance of \$63,000 per annum; but as long as the Public Debt of that Province remains under \$7,000,000, a deduction equal to the interest at five per centum per annum on such deficiency shall be made from that allowance of \$63,000.

Form of
payments.

120. All payments to be made under this Act, or in discharge of liabilities created under any Act of the Provinces of Canada, Nova Scotia and New Brunswick respectively, and assumed by Canada, shall, until the Parliament of Canada otherwise directs, be made in such form and manner as may from time to time be ordered by the Governor General in Council.

Manufac-
tures, etc., of
one Province
to be admitted
free into the
others.

121. All articles of the growth, produce, or manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

Continuance
of Customs
and Excise
Laws.

122. The Customs and Excise Laws of each Province shall, subject to the provisions of this Act, continue in force until altered by the Parliament of Canada.

Exportation
and importa-
tion as
between two
Provinces.

123. Where Customs duties are, at the Union, leviable on any goods, wares, or merchandises in any two Provinces, those goods, wares and merchandises may, from and after the Union, be imported from one of those Provinces into the other of

them on proof of payment of the Customs duty leviable thereon in the Province of exportation, and on payment of such further amount (if any) of Customs duty as is leviable thereon in the Province of importation.

124. Nothing in this Act shall affect the right of New Brunswick to levy the lumber dues provided in chapter fifteen, of title three, of the Revised Statutes of New Brunswick, or in any Act amending that Act before or after the Union, and not increasing the amount of such dues; but the lumber of any of the Provinces other than New Brunswick shall not be subject to such dues.

Lumber dues
in New
Brunswick.

125. No lands or property belonging to Canada or any Province shall be liable to taxation.

Exemption of
public lands,
etc., from
taxation.

126. Such portions of the duties and revenues over which the respective Legislatures of Canada, Nova Scotia and New Brunswick had before the Union power of appropriation as are by this Act reserved to the respective Governments or Legislatures of the Provinces, and all duties and revenues raised by them in accordance with the special powers conferred upon them by this Act, shall in each Province form one Consolidated Revenue Fund to be appropriated for the public service of the Province.

Provincial
Consolidated
Revenue
Fund.

IX.—MISCELLANEOUS PROVISIONS.

General.

127. If any person being at the passing of this Act a Member of the Legislative Council of Canada, Nova Scotia, or New Brunswick, to whom a place in the Senate is offered, does not within thirty days thereafter, by writing under his hand, addressed to the Governor General of the Province of Canada, or to the Lieutenant Governor of Nova Scotia or New Brunswick (as the case may be), accept the same, he shall be deemed to have declined the same; and any person who, being at the passing of this Act a member of the Legislative Council of Nova Scotia or New Brunswick, accepts a place in the Senate, shall thereby vacate his seat in such Legislative Council.

As to
Legislative
Councillors
of Provinces
becoming
Senators.

128. Every member of the Senate or House of Commons of Canada shall before taking his seat therein, take and subscribe before the Governor General or some person authorized by him, and every member of a Legislative Council or Legislative Assembly of any Province shall before taking his seat therein, take and subscribe before the Lieutenant Governor of the Province or some person authorized by him, the oath of allegiance contained in the fifth Schedule to this Act; and every member of the Senate of Canada and every member of the Legislative

Oath of
allegiance,
etc.

Council of Quebec shall also, before taking his seat therein, take and subscribe before the Governor General or some person authorized by him, the declaration of qualification contained in the same Schedule.

Continuance
of existing
laws, courts,
officers, etc.

129. Except as otherwise provided by this Act, all laws in force in Canada, Nova Scotia or New Brunswick at the Union, and all Courts of civil and criminal jurisdiction, and all legal commissions, powers and authorities, and all officers, judicial, administrative and ministerial, existing therein at the Union, shall continue in Ontario, Quebec, Nova Scotia and New Brunswick respectively, as if the Union had not been made; subject nevertheless (except with respect to such as are enacted by or exist under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland,) to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the respective Province, according to the authority of the Parliament or of that Legislature under this Act.

Transfer of
officers to
Canada

130. Until the Parliament of Canada otherwise provides, all officers of the several Provinces having duties to discharge in relation to matters other than those coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the Provinces shall be officers of Canada, and shall continue to discharge the duties of their respective offices under the same liabilities, responsibilities and penalties as if the Union had not been made.

Appointment
of new officers.

131. Until the Parliament of Canada otherwise provides, the Governor General in Council may from time to time appoint such officers as the Governor General in Council deems necessary or proper for the effectual execution of this Act.

Power for per-
formance of
treaty obliga-
tions by
Canada as part
of British
Empire.

132. The Parliament and Government of Canada shall have all powers necessary or proper for performing the obligations of Canada or of any Province thereof, as part of the British Empire, towards foreign countries, arising under treaties between the Empire and such foreign countries.

Use of English
and French
languages.

133. Either the English or the French language may be used by any person in the debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those languages shall be used in the respective records and journals of those Houses; and either of those languages may be used by any person or in any pleading or process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those languages.

Ontario and Quebec

134. Until the Legislature of Ontario or of Quebec otherwise provides, the Lieutenant Governors of Ontario and Quebec may each appoint under the Great Seal of the Province the following officers, to hold office during pleasure, that is to say:—the Attorney General, the Secretary and Registrar of the Province, the Treasurer of the Province, the Commissioner of Crown Lands, and the Commissioner of Agriculture and Public Works, and in the case of Quebec the Solicitor General; and may, by order of the Lieutenant Governor in Council, from time to time prescribe the duties of those officers and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof; and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of those officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof.

Appointment
of executive
officers for
Ontario and
Quebec.

135. Until the Legislature of Ontario or Quebec otherwise provides, all rights, powers, duties, functions, responsibilities or authorities at the passing of this Act vested in or imposed on the Attorney General, Solicitor General, Secretary and Registrar of the Province of Canada, Minister of Finance, Commissioner of Crown Lands, Commissioner of Public Works, and Minister of Agriculture and Receiver General, by any law, statute or ordinance of Upper Canada, Lower Canada, or Canada, and not repugnant to this Act, shall be vested in or imposed on any officer to be appointed by the Lieutenant Governor for the discharge of the same or any of them; and the Commissioner of Agriculture and Public Works shall perform the duties and functions of the office of Minister of Agriculture at the passing of this Act imposed by the law of the Province of Canada, as well as those of the Commissioner of Public Works.

Powers,
duties, etc.
of executive
officers.

136. Until altered by the Lieutenant-Governor in Council, the Great Seals of Ontario and Quebec respectively shall be the same, or of the same design, as those used in the Provinces of Upper Canada and Lower Canada respectively before their Union as the Province of Canada.

Great Seal.

137. The words “and from thence to the end of the then next ensuing Session of the Legislature,” or words to the same effect, used in any temporary Act of the Province of Canada not expired before the Union, shall be construed to extend and apply to the next Session of the Parliament of Canada, if the subject matter of the Act is within the powers of the same, as defined by this Act, or to the next Sessions of the Legislatures of Ontario and Quebec respectively, if the subject matter of the Act is within the powers of the same as defined by this Act.

Construction
of temporary
Acts.

As to errors in names.

138. From and after the Union, the use of the words "Upper Canada" instead of "Ontario," or "Lower Canada" instead of "Quebec," in any deed, writ, process, pleading, document, matter or thing, shall not invalidate the same.

As to issue of Proclamations before Union, to commence after Union.

139. Any Proclamation under the Great Seal of the Province of Canada issued before the Union to take effect at a time which is subsequent to the Union, whether relating to that Province, or to Upper Canada, or to Lower Canada, and the several matters and things therein proclaimed shall be and continue of like force and effect as if the Union had not been made.

As to issue of Proclamations after Union under authority of Acts before Union.

140. Any Proclamation which is authorized by any Act of the Legislature of the Province of Canada to be issued under the Great Seal of the Province of Canada, whether relating to that Province, or to Upper Canada, or to Lower Canada, and which is not issued before the Union, may be issued by the Lieutenant Governor of Ontario or of Quebec, as its subject matter requires, under the Great Seal thereof; and from and after the issue of such Proclamation the same and the several matters and things therein proclaimed shall be and continue of the like force and effect in Ontario or Quebec as if the Union had not been made.

Penitentiary.

141. The Penitentiary of the Province of Canada shall, until the Parliament of Canada otherwise provides, be and continue the Penitentiary of Ontario and of Quebec.

Arbitration respecting debts, etc.

142. The division and adjustment of the debts, credits, liabilities, properties and assets of Upper Canada and Lower Canada shall be referred to the arbitrament of three arbitrators, one chosen by the Government of Ontario, one by the Government of Quebec, and one by the Government of Canada; and the selection of the arbitrators shall not be made until the Parliament of Canada and the Legislatures of Ontario and Quebec have met; and the arbitrator chosen by the Government of Canada shall not be a resident either in Ontario or in Quebec.

Division of records.

143. The Governor General in Council may from time to time order that such and so many of the records, books, and documents of the Province of Canada as he thinks fit shall be appropriated and delivered either to Ontario or to Quebec, and the same shall thenceforth be the property of that Province; and any copy thereof or extract therefrom, duly certified by the officer having charge of the original thereof shall be admitted as evidence.

Constitution of townships in Quebec.

144. The Lieutenant Governor of Quebec may from time to time, by Proclamation under the Great Seal of the Province, to take effect from a day to be appointed therein, constitute townships in those parts of the Province of Quebec in which town-

ships are not then already constituted, and fix the metes and bounds thereof.

X.—INTERCOLONIAL RAILWAY.

145. Inasmuch as the Provinces of Canada, Nova Scotia, and New Brunswick have joined in a declaration that the construction of the Intercolonial Railway is essential to the consolidation of the Union of British North America, and to the assent thereto of Nova Scotia and New Brunswick, and have consequently agreed that provision should be made for its immediate construction by the Government of Canada: Therefore, in order to give effect to that agreement, it shall be the duty of the Government and Parliament of Canada to provide for the commencement within six months after the Union, of a railway connecting the River St. Lawrence with the City of Halifax in Nova Scotia, and for the construction thereof without intermission, and the completion thereof with all practicable speed.

Duty of Government and Parliament of Canada to make railway herein described.

XI.—ADMISSION OF OTHER COLONIES.

146. It shall be lawful for the Queen, by and with the advice of Her Majesty's Most Honourable Privy Council, on Addresses from the Houses of Parliament of Canada, and from the Houses of the respective Legislatures of the Colonies or Provinces of Newfoundland, Prince Edward Island, and British Columbia, to admit those Colonies or Provinces, or any of them, into the Union, and on Address from the Houses of the Parliament of Canada to admit Rupert's Land and the North-western Territory, or either of them, into the Union, on such terms and conditions in each case as are in the Addresses expressed and as the Queen thinks fit to approve, subject to the provisions of this Act; and the provisions of any Order in Council in that behalf shall have effect as if they had been enacted by the Parliament of the United Kingdom of Great Britain and Ireland.

Power to admit Newfoundland, Prince Edward Island, British Columbia, Rupert's Land and North-western Territory into the Union by Order in Council.

147. In case of the admission of Newfoundland and Prince Edward Island, or either of them, each shall be entitled to a representation in the Senate of Canada of four members, and (notwithstanding anything in this Act) in case of the admission of Newfoundland the normal number of Senators shall be seventy-six and their maximum number shall be eighty-two; but Prince Edward Island when admitted shall be deemed to be comprised in the third of the three divisions into which Canada is, in relation to the constitution of the Senate, divided by this Act, and accordingly, after the admission of Prince Edward Island, whether Newfoundland is admitted or not, the representation of Nova Scotia and New Brunswick in the Senate shall, as vacancies occur, be reduced from twelve to ten members respectively, and the representation of each of those Provinces shall not be increased at any time beyond ten, except under the provisions of this Act for the appointment of three or six additional Senators under the direction of the Queen.

As to representation of Newfoundland and Prince Edward Island in Senate.

SCHEDULE.

The FIRST SCHEDULE.

Electoral Districts of Ontario.

[*This Schedule is omitted as the division of Ontario into Electoral Districts has been altered by subsequent Dominion and Provincial legislation.*]

The SECOND SCHEDULE.

Electoral Districts of Quebec specially fixed.

[*See Section 80.*]

COUNTIES OF—

Pontiac.	Missisquoi.	Compton.
Ottawa.	Brome.	Wolfe and Richmond..
Argenteuil.	Shefford.	Megantic.
Huntingdon.	Stanstead.	
	Town of Sherbrooke.	

The THIRD SCHEDULE.

Provincial Public Works and Property to be the Property of Canada.

1. Canals, with Lands and Water Power connected therewith.
2. Public Harbours.
3. Lighthouses and Piers, and Sable Island.
4. Steamboats, Dredges, and public Vessels.
5. Rivers and Lake Improvements.
6. Railways and Railway Stocks, Mortgages, and other Debts due by Railway Companies.
7. Military Roads.
8. Custom Houses, Post Offices, and all other Public Buildings, except such as the Government of Canada appropriate for the use of the Provincial Legislatures and Governments.
9. Property transferred by the Imperial Government, and known as Ordnance Property.
10. Armouries, Drill Sheds, Military Clothing, and Munitions of War, and Lands set apart for general public purposes.

The FOURTH SCHEDULE.

Assets to be the Property of Ontario and Quebec conjointly.

Upper Canada Building Fund.
 Lunatic Asylums.
 Normal School.
 Court Houses,)
 in)
 Aylmer,)
 Montreal,)
 Kamouraska.)
 } Lower Canada.
 Law Society, Upper Canada.
 Montreal Turnpike Trust.
 University Permanent Fund.
 Royal Institution.
 Consolidated Municipal Loan Fund, Upper Canada.
 Consolidated Municipal Loan Fund, Lower Canada.
 Agricultural Society, Upper Canada.
 Lower Canada Legislative Grant.
 Quebec Fire Loan.
 Tanisouata Advance Account.
 Quebec Turnpike Trust.
 Education—East.
 Building and Jury Fund, Lower Canada.
 Municipalities Fund.
 Lower Canada Superior Education Income Fund.

The FIFTH SCHEDULE.

OATH OF ALLEGIANCE.

I, A.B. do swear, That I will be faithful and bear true Allegiance to Her Majesty Queen Victoria.

Note.—The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time, with proper terms of reference thereto.

DECLARATION OF QUALIFICATION.

I, A.B. do declare and testify, That I am by law duly qualified to be appointed a Member of the Senate of Canada [*or as the case may be*], and that I am legally or equitably seised as of freehold for my own use and benefit of lands or tenements held in free and common socage [*or seised or possessed for my own use and benefit of lands or tenements held in franc-alieu or in rotture (as the case may be),*] in the Province of Nova Scotia [*or as the case may be*] of the value of four thousand dollars over and above all rents, dues, debts, mortgages, charges, and incumbrances due or payable out of or charged on or affecting the same, and that I have not collusively or colourably obtained a title to or become possessed of the said lands and tenements or any part thereof for the purpose of enabling me to become a Member of the Senate of Canada [*or as the case may be*], and that my real and personal property are together worth four thousand dollars over and above my debts and liabilities.

BOUNDARIES OF ONTARIO.

IMPERIAL ACT, 52-53 VICT., Cap. 28.

An Act to declare the Boundaries of the Province
of Ontario in the Dominion of Canada.

[*12th August, 1889.*]

WHEREAS the Senate and Commons of Canada in Parliament assembled, have presented to Her Majesty the Queen, the address set forth in the Schedule to this Act respecting the boundaries of the Province of Ontario.

And whereas the Government of the Province of Ontario have assented to the boundaries mentioned in that address ;

And whereas such boundaries so far as the Province of Ontario adjoins the Province of Quebec are identical with those fixed by the proclamation of the Governor-General, issued in November, 1791, which have ever since existed ;

And whereas such boundaries so far as the Province of Ontario adjoins the Province of Manitoba are identical with those found to be the correct boundaries by a report of the Judicial Committee of the Privy Council, which Her Majesty, the Queen in Council, on the eleventh day of August, one thousand eight hundred and eighty-four, ordered to be carried into execution ;

And whereas it is expedient that the boundaries of the Province of Ontario should be declared by authority of Parliament in accordance with the said address ;

Be it therefore enacted by the Queen's most excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled, and by the authority of the same as follows :

Short title.

1. This Act may be cited as the Canada (Ontario Boundary) Act, 1889.

2. It is hereby declared that the westerly, northerly and easterly boundaries of the Province of Ontario are those described in the address set forth in the Schedule to this Act.

Declaration of
boundaries
of Ontario.

SCHEDULE.

ADDRESS TO THE QUEEN FROM THE SENATE AND HOUSE OF COMMONS OF CANADA.

We, your Majesty's most dutiful and loyal subjects the Senate and Commons of Canada in Parliament Assembled, humbly approach Your Majesty with the request that Your Majesty may be graciously pleased to cause a measure to be submitted to the Parliament of the United Kingdom, declaring and providing the following to be the westerly, northerly and easterly boundaries of the Province of Ontario, that is to say :—

Commencing at the point where the international boundary between the United States of America and Canada strikes the western shores of Lake Superior, thence westerly along the said boundary to the north west angle of the Lake of the Woods, thence along a line drawn due north until it strikes the middle line of the course of the river discharging the waters of the lake called Lake Seul or the Lonely Lake, whether above or below its confluence with the stream flowing from the Lake of the Woods towards Lake Winnipeg, and thence proceeding eastward from the point at which the before mentioned line strikes the middle line of the course of the river last aforesaid, along the middle line of the course of the same river (whether called by the name of the English River, or, as to the part below the confluence, by the name of the River Winnipeg), up to Lake Seul or the Lonely Lake, and thence along the middle line of Lake Seul or Lonely Lake to the head of that lake, and thence by a straight line to the nearest point of the middle line of the waters of Lake St. Joseph, and thence along that middle line until it reaches the foot or outlet of that lake, and thence along the middle line of the river by which the waters of Lake St. Joseph discharge themselves, to the shore of the part of Hudson's Bay commonly known as James' Bay, and thence south-easterly following upon the said shore to a point where a line drawn due north from the head of Lake Temiscamingue would strike it, and thence due south along the said line to the head of the said lake, and thence through the middle channel of the said lake into the Ottawa River, and thence descending along the middle of the main channel of the said river to the intersection by the prolongation of the western limits of the Seigneurie of Rigaud, such mid-channel being as indicated on a map of the Ottawa Ship Canal Survey, made by Walter Shanly, C. E., and approved by order of the Governor-General in Council dated the twenty-first July, one thousand eight hundred and eighty-six ; and thence southerly following the said westerly boundary of the Seigneurie of Rigaud to the south-west angle of the said Seigneurie, and then southerly along the western boundary of the augmentation of the Township of Newton to the north-west angle of the Seigneurie of Longueuil, and thence south-easterly along the south-western boundary of said Seigneurie of New Longueuil to a stone boundary on the north bank of the Lake St. Francis, at the cove west of Point au Baudet, such line from the Ottawa River to Lake St. Francis being as indicated on a plan of the line of boundary between Upper and Lower Canada made in accordance with the Act, 23 Victoria chapter 21, and approved by order of the Governor-General in Council, dated the 16th March, 1861.

REVISED STATUTES OF ONTARIO.

SECTION I.

PRELIMINARY.

CHAPTER 1.

An Act respecting the Form and Interpretation of the Statutes.

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OTHERWISE APPROPRIATED, s.
8 (30, 32).

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POWER TO MAKE BY-LAWS, RULES, &c., TO INCLUDE POWER TO ALTER, s. 8 (38).

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PREAMBLE TO BE PART OF AN ACT, s. 8 (40).

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CERTAIN PRELIMINARY ACTS MAY BE DONE BEFORE COMMENCEMENT OF ACT, s. 8 (43).

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REPEAL OF ACTS—

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Officers appointed, acts done or penalties incurred under repealed Act, s. 8 (49-51).

Rules, &c., made before repeal, s. 8 (52).

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WHERE AN ACT IS AN OFFENCE UNDER TWO ACTS, HOW PUNISHABLE, s. 11.

INTERPRETATION OF THIS ACT, s. 12.
"Felony," "Misdemeanour," in Revised Statutes, s. 13.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Interpretation Act*," R. S. O. 1887, c. 1, s. 1.

What to constitute "The Revised Statutes of Ontario."

2. This Act and following series of Acts shall constitute and may be cited for all purposes as "*The Revised Statutes of Ontario, 1897*," and any chapter of the said Revised Statutes may be cited and referred to for all purposes whatever, either by its title as an Act, or by its short title, or by using the expression "*The Act (or The Revised Statute) respecting—*" (adding the remainder of the title given at the beginning of the particular chapter), or by using the expression "*The Revised Statutes, 1897*" or "*The Revised Statutes of Ontario, 1897*," together with a reference to the number of the particular chapter in the copies printed by the Queen's Printer. R. S. O. 1887, c. 1, s. 2.

How they may be cited.

Form of enacting clause.

3. The following words may be inserted in the preambles of statutes, and shall indicate the authority by virtue of which they are passed: "Her Majesty, by and with the advice and consent

of the Legislative Assembly of the Province of Ontario, enacts as follows." R. S. O. 1887, c. 1, s. 3.

4. After the insertion of the words aforesaid, which shall follow the setting forth of the considerations or reasons upon which the law is grounded, and which shall, with these considerations or reasons, constitute the entire preamble, the various provisions of the statute shall follow in a concise and enunciative form. R. S. O. 1887, c. 1, s. 4.

Provisions to follow in concise form.

5. Any Act of the Legislature of Ontario may be amended, altered or repealed by any Act to be passed in the same Session thereof. R. S. O. 1887, c. 1, s. 5.

Acts may be amended or repealed during Session in which passed.

6.—(1) The Clerk of the Legislative Assembly shall endorse on every Act of the Legislature of Ontario, immediately after the title of such Act, the day, month and year when the same was by the Lieutenant-Governor assented to, or reserved; in the latter case, the Clerk of the Legislative Assembly shall also endorse thereon the day, month and year when the Lieutenant-Governor has signified either by speech or message to the Legislative Assembly, or by proclamation, that the same was laid before the Governor-General in Council, and that the Governor-General was pleased to assent thereto.

Endorsement on Acts.

(2) Such endorsement shall be taken to be a part of the Act; and the date of the assent or signification, as the case may be, shall be the date of the commencement of the Act, if no later commencement is therein provided. R. S. O. 1887, c. 1, s. 6.

Time of commencement.

7.—(1) This section and sections 8 to 12 of this Act and each provision thereof, shall extend and apply to these Revised Statutes of Ontario and to every Act of the Legislature of Ontario, passed after the said Revised Statutes take effect, except in so far as the provision is inconsistent with the intent and object of such Act, or the interpretation which such provision would give to any word, expression or clause, is inconsistent with the context, and except in so far as any provision thereof is in any such Act declared not applicable thereto.

This and following sections except 13 to apply to all Acts.

(2) The omission in any Act of a declaration that *The Interpretation Act* shall apply thereto, shall not be construed to prevent its so applying, although such express declaration may be inserted in some other Act or Acts of the same Session. R. S. O. 1887, c. 1, s. 7; 60 V. c. 2, s. 1.

Express declaration that Act shall apply unnecessary.

8. Subject to the limitations in the preceding section of this Act—in every Act to which this section applies,

How enactments shall be construed.

1. The Law shall be considered as always speaking, and whenever any matter or thing is expressed in the present tense, the same is to be applied to the circumstances as they arise, so

Expressions in present tense.

that effect may be given to each Act and every part thereof according to its spirit, true intent and meaning;

“Shall” and “may.” 2. The word “shall” shall be construed as imperative and the word “may” as permissive;

“Herein.” 3. Wherever the word “herein” is used in any section of an Act, it shall be understood to relate to the whole Act and not to that section only;

“Now,” and “next.” 4. The words “now” and “next” shall be construed as having reference to the time when the Act was presented for the Royal Assent;

“Her Majesty,” etc. 5. The words “Her Majesty,” “the Queen,” or “the Crown,” shall mean Her Majesty, Her Heirs and Successors, Sovereigns of the United Kingdom of Great Britain and Ireland;

“Lieutenant-Governor,” or “Governor.” 6. The words “Lieutenant-Governor,” or “Governor,” shall mean the Lieutenant-Governor for the time being of Ontario, or other the Chief Executive Officer or Administrator for the time being carrying on the government of Ontario, by whatever title he is designated;

“Lieutenant-Governor in Council,” etc. 7. The words “Lieutenant-Governor in Council,” or “Governor in Council,” shall mean the Lieutenant-Governor of Ontario, or person administering the government of Ontario for the time being, acting by and with the advice of the Executive Council for Ontario;

“United Kingdom,” “United States,”
Names of places, corporations, etc. 8. The words “the United Kingdom” shall mean the United Kingdom of Great Britain and Ireland; and the words “the United States” shall mean the United States of America: and generally, the name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing, shall mean such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name be not the formal and extended designation thereof;

“Upper Canada,” “Lower Canada.” 9. The words “Upper Canada” shall mean all that part of Canada which formerly constituted the Province of Upper Canada; and the words “Lower Canada” shall mean all that part of Canada which formerly constituted the Province of Lower Canada;

“Proclamation,” “Great Seal.” 10. The word “proclamation” shall mean a proclamation under the Great Seal; and the expression “Great Seal” shall mean the Great Seal of Ontario;

Lieutenant-Governor acting by proclamation. 11. Where the Lieutenant-Governor is authorized to do any act by proclamation, such proclamation is to be understood to be a proclamation issued under an order of the Lieutenant-Governor in Council; but it shall not be necessary that it be mentioned in the proclamation that it is issued under such order;

12. The word "county" shall include two or more counties "County." united for purposes to which the enactment relates;

13. The word "person" shall include any body corporate "Person." or politic, or party, and the heirs, executors, administrators or other legal representatives of such person, to whom the context can apply according to law;

14. The words "writing," "written," or any term of "Writing," like import, shall include words printed, painted, engraved, "Written." lithographed, photographed, phonographed, or otherwise traced or copied;

15. The word "month" shall mean a calendar month; and "Month," the word "year," a calendar year. R. S. O. 1887, c. 1, s. 8 (1-15); "Year."

16. The word "holiday" shall include Sundays, New Year's "Holiday." Day, Good Friday, Easter Monday, and Christmas Day, Dominion Day, the day appointed for the celebration of the birth-day of Her Majesty or of any of Her Royal Successors, Labour Day, and any day appointed by proclamation of the Governor-General or Lieutenant-Governor as a public holiday or for a General Fast or Thanksgiving. R. S. O. 1887, c. 1, s. 8 (16); 60 V. c. 15, Sched. A (1);

17. If the time limited by an Act for any proceeding, or for the doing of anything under its provisions, expires or falls upon a holiday, the time so limited shall extend to, and such thing may be done on, the day next following which is not a holiday. Computation of time where time limited expires on a holiday. R. S. O. 1887, c. 1, s. 8 (17);

[*For legal meaning of expressions relative to time see Cap. 144.*]

18. The words "oath" and "affidavit" shall in the case "Oath." of persons for the time being allowed by law to affirm or "Affidavit." declare instead of swearing, include affirmation and declaration; the word "swear" in the like case shall include affirm "Swear." and declare, and "sworn" shall include affirmed and declared. "Sworn."

And in every case where an oath, affirmation or declaration is directed to be made before any person or officer, such person or officer shall have full power and authority to administer the same and to certify to its having been made. Authority to administer. 60 V. c. 2, s. 2.

19. Where by an Act of the Legislature of this Province, Administration of oaths. or by a rule of the Legislative Assembly, or by an order, regulation or commission made or issued by the Lieutenant-Governor in Council, under a law authorizing him to require the taking of evidence under oath, an oath is authorized or directed to be made, taken or administered, the oath may be administered, and a certificate of its having been made, taken or administered may be given, by any one named in the Act, Certificate of administration of oaths. rule, order, regulation or commission, or by a Judge of any Court, a Notary Public, Justice of the Peace, or Commissioner for taking affidavits, having authority or jurisdiction in the place where the oath is administered;

"Sureties," 20. The word "sureties" shall mean sufficient sureties
 "Security." and the word "security" shall mean sufficient security, and where these words are used, one person shall be sufficient therefor unless otherwise expressly required ;

"Registrar." 21. The word "Registrar" shall include a Deputy Registrar ;

"Magistrate," 22. The word "Magistrate" shall mean a Justice of the
 "Two Jus- Peace ; the words "two Justices" shall mean two or more
 "tices." Justices of the Peace, assembled or acting together ; the words
 "Justice of the Peace," or "Justice of the Peace" or "Magistrate" shall include two
 "Magistrate" or more Justices of the Peace or Magistrates assembled or
 to include two acting together ;
 or more acting together.

If anything is directed to be done by or before a Magistrate or a Justice of the Peace, or other public functionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done ;

Implied powers. Wherever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer, or functionary to do or enforce the doing of such act or thing ;

"Legally qualified medical practitioner," "duly qualified medical practitioner." 23. The words "legally qualified medical practitioner" or "duly qualified medical practitioner," or any other words importing legal recognition of any person as a medical practitioner or member of the medical profession, shall mean a person registered under *The Ontario Medical Act* ;
 Rev. Stat. c. 176.

Number and gender. 24. Words importing the singular number or the masculine gender only, shall include more persons, parties or things of the same kind than one, and females as well as males, and the converse ;

Effect of words constituting a corporation. 25. Words making any association or number of persons a corporation or body politic and corporate, shall vest in such corporation power to sue and be sued, contract and be contracted with, by their corporate name, to have a common seal, and to alter or change the same at their pleasure, and to have perpetual succession, and power to acquire and hold personal property or movables for the purposes for which the corporation is constituted, and to alienate the same at pleasure ; and shall also vest in any majority of the members of the corporation, the power to bind the others by their acts ; and shall exempt the individual members of the corporation from personal liability for its debts, obligations or acts, provided they do not contravene the provisions of the Act incorporating them ;

Words authorizing appointment include power to remove. 26. Words authorizing the appointment of any public officer or functionary, or any deputy, shall include the power of removing him, re-appointing him, or appointing another in his stead, from time to time, in the discretion of the authority in whom the power of appointment is vested ;

27. Words directing or empowering a public officer or functionary to do any act or thing, or otherwise applying to him by his name of office, shall include his successors in such office, and his or their lawful deputy ;

Directions to public officer to apply to his successors and his deputy.

28. All officers heretofore or hereafter appointed by the Lieutenant-Governor, whether by commission or otherwise, shall remain in office during pleasure only ;

Appointments by Lieutenant-Governor to be during pleasure.

29. If in any Act any person is directed to be imprisoned or committed to prison, the imprisonment or committal shall, if no other place is mentioned or provided by law, be in or to the Common Gaol of the locality in which the order for the imprisonment is made, or if there be no Common Gaol there, then in or to that Common Gaol which is nearest to such locality ; and the keeper of any Common Gaol shall receive the person, and him safely keep and detain in the Common Gaol under his custody until discharged in due course of law, or bailed in cases in which bail may by law be taken ;

Imprisonment where no special place is mentioned.

30. Where a pecuniary penalty or a forfeiture is imposed for a contravention of any Act,—then, if no other mode is prescribed for the recovery thereof, the penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the Crown only, or of a private party suing as well for the Crown as for himself, before a Court having jurisdiction to the amount of the penalty in cases of simple contract, upon the evidence of one credible witness other than the plaintiff or party interested ;

Recovery of penalties when no special mode is prescribed.

If no other provision is made for the appropriation of the penalty or forfeiture, one-half thereof shall belong to the Crown, and the other half shall belong to the private plaintiff, if any there be, and if there be none, the whole shall belong to the Crown ;

Appropriation

31. Where a pecuniary penalty or forfeiture is imposed by an Act of this Province, and the amount of the penalty or forfeiture is in any respect in the discretion of the Court or Judge, or in case the Court or Judge has the right to impose imprisonment in addition to, or in lieu of, the penalty or forfeiture, and no other mode is by the Act expressly prescribed for the recovery of the penalty or forfeiture, the same may be recovered upon indictment in the High Court of Justice or General Sessions of the Peace ;

Cases where pecuniary penalty imposed by statute may be recovered on indictment

32. Any duty, penalty or sum of money, or the proceeds of any forfeiture, which is by any Act given to the Crown, shall, if no other provision be made respecting it, form part of the Consolidated Revenue Fund of this Province, and be accounted for and otherwise dealt with accordingly ;

Application of penalties, etc., when not otherwise appropriated.

33. If any sum of the public money is by an Act appropriated for any purpose, or directed to be paid by the Lieutenant-Governor,—then, if no other provision is made respecting

Paying over and accounting for public moneys.

it, such sum shall be payable under warrant of the Lieutenant-Governor directed to the Treasurer of the Province, out of the Consolidated Revenue Fund; and all persons entrusted with the expenditure of any such sum, or any part thereof, shall account for the same in such manner and form, with such vouchers, at such periods and to such officer, as the Lieutenant-Governor may direct;

Acts to be done by more than two.

34. Where an act or thing is required to be done by more than two persons, a majority of them may do it;

Deviation from forms.

35. Where forms are prescribed, slight deviations therefrom not affecting the substance or calculated to mislead, shall not vitiate them. R. S. O. 1887, c. 1, s. 8 (19-35);

Rules of court.

36. The expression "rules of court" when used in relation to any court shall mean rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court. 60 V. c. 2, s. 3 (1);

Authority to make rules of court.

37. The power of the said authority to make rules of court as above defined shall include a power to make rules of court for the purpose of any Act directing or authorizing anything to be done by rules of court. 60 V. c. 2, s. 3 (2);

Power to make by-laws, etc., to confer power to alter.

38. Where power to make by-laws, regulations, rules or orders is conferred, it shall include the power to alter or revoke the same from time to time and make others. R. S. O. 1887, c. 1, s. 8 (36);

Acts to be deemed public Acts.

39. Every Act shall, unless by express provision it is declared to be a Private Act, be deemed to be a Public Act, and shall be judicially noticed by all Judges, Justices of the Peace, and others, without being specially pleaded. R. S. O. 1887, c. 1, s. 8 (37 part);

Preamble to be a part of Act.

40. The Preamble of an Act shall be deemed a part thereof and intended to assist in explaining the purport and object of the Act;

All Acts remedial.

41. Every Act and every provision or enactment thereof shall be deemed remedial, whether its immediate purport be to direct the doing of anything which the Legislature deems to be for the public good, or to prevent or punish the doing of anything which it deems to be contrary to the public good,—and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act, and of the provision or enactment, according to the true intent, meaning and spirit thereof. R. S. O. 1887, c. 1, s. 8 (38, 39);

Construction.

References to numbers of sections to include first and last number.

42. Where reference is made by number to two or more sections, subsections or clauses in any statute, the number first mentioned and the number last mentioned shall both be deemed to be included in the reference. 60 V. c. 2, s. 12;

43. Where an Act is not to come into operation immediately on the passing thereof, and confers power to make any appointment, to make, grant or issue any instrument, that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations, or by-laws, to give notices, to prescribe forms or to do any other thing for the purposes of the Act, that power may, unless the contrary intention appears, be exercised at any time after the passing of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to this restriction that any instrument made under the power shall not, unless the contrary intention appears in the Act, or the contrary is necessary for bringing the Act into operation, come into operation until the Act comes into operation. 60 V. c. 2, s. 4 ;

What may be done under an Act before the date fixed for its commencement.

44. Where any Act confers power to make, grant or issue any instrument, that is to say, any Order in Council, order, warrant, scheme, letters patent, rules, regulations or by-laws, expressions used in the instrument, if it is made after the 31st day of December, 1897, shall, unless the contrary intention appears, have the same respective meaning as in the Act conferring the power. 60 V. c. 2, s. 5 ;

Expressions used in instruments issued under any Act to have same meaning as in the Act.

45. Every Act shall be construed as reserving to the Legislature the power of repealing or amending it, and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party, whenever the repeal, amendment, revocation, restriction, or modification is deemed by the Legislature to be required for the public good ;

Reservation of power to repeal or amend.

46. The repeal of any Act or part of an Act shall not revive any Act or provision of law repealed by such Act or part of an Act, or prevent the effect of any saving clause therein. R. S. O. 1887, c. 1, s. 8 (40, 41) ;

Repeal of an Act not to revive an Act by it repealed.

47. Whenever any Act or part of an Act is repealed, and other provisions are substituted by way of amendment, revision or consolidation, any reference in any unrepealed Act, or in any rule, order or regulation made thereunder, to such repealed Act or enactment, shall, as regards any subsequent transaction, matter or thing, be held and construed to be a reference to the provisions of the substituted Act or enactment relating to the same subject matter as such repealed Act or enactment ; Provided always, that where there is no provision in the substituted Act or enactment relating to the same subject matter, the repealed Act or enactment shall stand good, and be read and construed as unrepealed in so far, but in so far only, as is necessary to support, maintain or give effect to such unrepealed Act, or such rule, order or regulation made thereunder. 60 V. c. 2, s. 6 ;

Repeal of provisions and substitution of other enactments, effect of.

Proviso.

48. Whenever part of an Act is repealed and any provision substituted therefor is incorporated in such Act, unless the

When substituted provisions to take effect.

contrary is expressly declared, such substituted provision shall take effect from the date of the commencement of the repealing Act, and the expression "the commencement of this Act" when used in the provision so substituted shall mean the commencement of the repealing Act. 60 V. c. 2, s. 7;

Effect of repeal of Act on persons acting under it.

49. Where any Act is repealed, wholly or in part, and other provisions are substituted, all officers, persons, bodies politic or corporate, acting under the old law, shall continue to act as if appointed under the new law, until others are appointed in their stead: and all proceedings taken under the old law shall be taken up and continued under the new law, when not inconsistent therewith: and all penalties and forfeitures may be recovered, and all proceedings had, in relation to matters which have happened before the repeal, in the same manner as if the law were still in force, pursuing the new provisions as far as they can be adapted to the old law. R. S. O. 1887, c. 1, s. 8 (42);

As to acts, etc., done before repeal.

50. The repeal of an Act at any time shall not affect any act done or any right or right of action existing, accruing, accrued or established, or any proceedings commenced in a civil cause, before the time when such repeal takes effect; but the proceedings in such case shall be conformable when necessary to the repealing Act. R. S. O. 1887, c. 1, s. 8 (43);

Offences committed and penalties incurred not affected by repeal.

51. No offence committed, and no penalty or forfeiture incurred, and no proceeding pending under any Act at any time repealed, shall be affected by the repeal, except that the proceedings shall be conformable, where necessary, to the repealing Act, and that where any penalty, forfeiture or punishment has been mitigated by any of the provisions of the repealing Act, such provisions shall be extended and applied to any judgment to be pronounced after such repeal;

Rules, etc., made before repeal.

52. All rules and regulations made under an Act before the repeal thereof, shall continue valid until altered or annulled;

Appointments and bonds before repeal.

53. All appointments, and all bonds and securities given by the parties appointed under any Act at any time passed and afterwards repealed shall not be affected by the repeal, but shall remain in full force; and all offices, establishments, books, papers and other things made or used under a repealed Act, shall continue as before the repeal. R. S. O. 1887, c. 1, s. 8 (44-46);

Repeal of Act not a declaration that Act was in force.

54. The repeal of any Act or part of an Act shall not be deemed to be or to involve a declaration that such Act, or the part thereof so repealed, was, or was considered by the Legislature to have been, previously in force. 60 V. c. 2, s. 8;

Repeal of amendment not a declaration of previous state of the law.

55. The repeal or amendment of any Act shall not be deemed to be or to involve any declaration whatsoever as to the previous state of the law. 60 V. c. 2, s. 10;

56. The amendment of any Act shall not be deemed to be or to involve a declaration that the law under such Act was, or was considered by the Legislature to have been, different from the law as it has become under such Act as so amended. 60 V. c. 2, s. 9: Amendment of Act not a declaration of different state of law.

57. The Legislature shall not, by re-enacting an Act or part of an Act, or by revising, consolidating or amending the same, be deemed to have adopted the construction which has by judicial decision or otherwise, been placed upon the language used in such Act or upon similar language. 60 V. c. 2, s. 11; Re enactment, etc., not an adoption of judicial construction.

58. No provision or enactment in any Act shall affect in any manner or way whatsoever, the rights of Her Majesty, Her Heirs or Successors, unless it is expressly stated therein that Her Majesty shall be bound thereby; nor if the Act be in the nature of a Private Act, shall it affect the rights of any person, or body politic, corporate, or collegiate, such only excepted as are therein mentioned or referred to; Acts not to affect the Crown unless so declared.
Private Acts.

59. Nothing in this section shall exclude the application to any Act, of any rule of construction applicable thereto, and not inconsistent with this section. R. S. O. 1887, c. 1, s. 8, (47, 48). Other rules of construction applicable.

9. The interpretation section of *The Judicature Act*, so far as the terms defined can be applied, shall extend to all enactments relating to legal matters. R. S. O. 1887, c. 1, s. 9. Interpretation section of Rev. Stat. c. 51.

10. The interpretation section of *The Municipal Act*, so far as the terms defined can be applied, shall extend to all enactments relating to Municipalities. R. S. O. 1887, c. 1, s. 10. Interpretation section of Municipal Acts. Rev. Stat. c. 223.

11. Where an act or omission constitutes an offence under two or more Acts, or an offence both under an Act and at common law, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of those Acts or at common law, but shall not be liable to be punished twice for the same offence. 60 V. c. 2, s. 13. Offences involving liability under more than one Act, etc.

12. The provisions of this Act shall apply to the construction thereof, and to the words and expressions used therein. R. S. O. 1887, c. 1, s. 11. Provisions herein to apply to this Act.

13. In these Revised Statutes "felony" shall mean any crime which before the passing of *The Criminal Code, 1892*, of Canada would have been a felony under the law of Canada and "misdemeanour" shall mean any crime which before the passing of the said Code would have been a misdemeanour under the said law. 60 V. c. 3, s. 3. Meaning of "felony" and "misdemeanour" when used in Revised Statutes.

CHAPTER 2.

An Act respecting the Printing and Distribution of the Statutes.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

How statutes shall be printed and bound.

1. The Statutes shall be printed in royal octavo form, on fine paper, in small pica type, thirty-two ems by fifty-five ems, including marginal notes in minion, such notes referring to the year and chapter of previous Statutes, whenever the text amends, repeals or changes the enactments of former years; and shall be half bound in cloth, with backs of red sheep-skin and lettered; and shall be arranged for distribution in such manner, either by the binding of the Public General Acts and Acts of a local or private character, in separate volumes, or by binding them together in the same volumes with separate indexes or otherwise, as the Lieutenant-Governor in Council may deem expedient. R. S. O. 1887, c. 2, s. 1.

Classification of statutes.

Certified copy of every Act to be furnished to Queen's Printer.

2. The Clerk of the Legislative Assembly shall furnish the Queen's Printer with a certified copy of every Act of the Legislature, as soon as the same has received assent, or if the Bill has been reserved, as soon as the assent thereto has been proclaimed in this Province. R. S. O. 1887, c. 2, s. 2.

Queen's Printer to distribute Acts.

3. The Queen's Printer shall, immediately after the close of each Session of the Legislature, or as soon after as may be practicable, deliver or transmit by post, or otherwise, in the most economical mode, the proper number of printed copies of the Acts of the Session (to be printed by him at the public expense) to the parties hereinafter mentioned, that is to say :—

(a) To the members of the Legislative Assembly respectively, such numbers of copies as may from time to time be directed by any resolution of the said Assembly, or in default of such resolution, in such numbers as shall be directed by any order of the Lieutenant-Governor in Council;

(b) To such public departments, administrative bodies and officers, throughout the Dominion of Canada, as may be specified in any order to be for that purpose made from time to time by the Lieutenant-Governor in Council. R. S. O. 1887, c. 2, s. 3.

4. When a Bill receives assent during and before the termination of a Session of the Legislature, the Queen's Printer shall, on intimation to that effect from the Provincial Secretary, cause distribution to be made of such number of copies thereof, to the same parties and in like manner as is hereinbefore provided in regard to the Acts of any Session. R. S. O. 1887, c. 2, s. 4.

Distribution of Bills assented to before the end of the Session.

5. The Provincial Secretary shall, within fifteen days after the close of every Session of the Legislature, transmit to the Queen's Printer a list of all the Public Departments, Administrative Bodies and Officers to whom such copies are to be transmitted as aforesaid, and shall also, from time to time, as occasion requires, furnish him with copies of all Orders in Council made under the provisions of this Act. R. S. O. 1887, c. 2, s. 5.

List to be furnished of persons to receive copies.

6. If after the distribution of the said printed Acts any copies remain in the hands of the Queen's Printer, he may deliver any number thereof to any person by order of the Lieutenant-Governor, on notice thereof by the Provincial Secretary, or to the members of the Legislative Assembly, on the order of the Speaker of the said Assembly. R. S. O. 1887, c. 2, s. 6.

Disposition of remaining copies.

7. The Queen's Printer shall, before the opening of every Session of the Legislative Assembly, make a report in triplicate to the Lieutenant-Governor (to be by him laid before the said Assembly within fifteen days after the opening of such Session), shewing the number of copies of the Acts of each Session which have been printed and distributed by him since the last Session, the departments, administrative bodies, officers and persons to whom the same have been distributed, the number of copies delivered to each, and under what authority, and the number of copies of the Acts of each Session then remaining in his hands, and containing also a detailed account of the expenses by him actually incurred in carrying this Act into effect, to the end that provision may be made for defraying the same, after such account has been duly audited and allowed. R. S. O. 1887, c. 2, s. 7.

Report by Queen's Printer as to number of copies distributed, and as to expense incurred by him.

SECTION II.

TERRITORIAL DIVISION.

CHAPTER 3.

An Act respecting the Territorial Division of Ontario
for Municipal and Judicial purposes.

EXISTING DIVISIONS OF ONTARIO	HOLDING OF COURTS IN COUNTIES,
CONTINUED, s. 1.	ETC., s. 5.
Counties, s. 1 (1-42).	COURT HOUSES, GAOLS, SCHOOL
Provisional County of Haliburton,	HOUSES, ETC., EXISTING PRO-
s. 1 (43).	PERTY IN, CONTINUED, s. 6.
Territorial and Provisional Judi-	BOUNDARIES OF TOWNSHIPS ON LAKES
cial Districts, s. 1 (44-50).	AND RIVERS, ss. 7-10.
EXPRESS MENTION OF TOWNS, ETC.,	ISLANDS, s. 11.
NOT TO EXCLUDE GENERAL PRO-	FORMATION OF NEW TOWNSHIPS, ss.
VISIONS IN CASES OF TOWNS, ETC.,	12, 13.
NOT MENTIONED, s. 2.	CHANGING NAMES OF TOWNSHIPS, s.
UNITED COUNTIES, ss. 3, 4.	14.
UNION OF CITIES WITH COUNTIES FOR	ANNEXATION OF GORES OF LAND TO
JUDICIAL PURPOSES, s. 3.	TOWNSHIPS, s. 15.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

Existing or-
ganization
continued.

1. The Territorial Division of Ontario into Counties and Districts shall continue as hereinafter set forth, and for municipal and judicial purposes such Counties, and for judicial purposes such Districts, shall respectively consist of the several Townships hereinafter mentioned, including in the said Townships, Counties and Districts the Towns and Incorporated Villages situated within the limits of such Townships,

Counties and Districts respectively, and including in certain of such Counties and Districts other lands as hereinafter mentioned.
R. S. O. 1887, c. 5, s. 1, part.

[NOTE.—Where new villages, towns or cities have been formed within the limits of any county by Statute the Act incorporating them is referred to. In other cases no reference is made.]

1.—THE COUNTY OF BRANT

Brant.

Shall consist of the Townships of—

- | | |
|---------------------|---------------|
| 1. Brantford, | 4. Oakland, |
| 2. Burford, | 5. Onondaga, |
| 3. Dumfries, South, | 6. Tuscarora, |

The City of Brantford,

And the Town of Paris.

R. S. O. 1887, c. 5, s. 1 (1.)

2.—THE COUNTY OF BRUCE

Bruce.

Shall consist of the Townships of—

- | | |
|-----------------|-----------------|
| 1. Arran, | 9. Eastnor, |
| 2. Albemarle, | 10. Elderslie, |
| 3. Amabel, | 11. Greenock, |
| 4. Brant, | 12. Huron, |
| 5. Bruce, | 13. Kincardine, |
| 6. St. Edmunds, | 14. Kinloss, |
| 7. Carrick, | 15. Lindsay, |
| 8. Culross, | 16. Saugeen, |

Together with all that portion of the peninsular tract of land known as the Indian Reserve, not included in the County of Grey, and the Islands in Lake Huron and the Georgian Bay contiguous to the said Reserve,

The Towns of—

- | | |
|----------------|-------------|
| 1. Kincardine, | 3. Wiarton. |
| 2. Walkerton, | |

And the Villages of—

- | | |
|----------------|-----------------|
| 1. Chesley, | 5. Southampton, |
| 2. Lucknow, | 6. Tara, |
| 3. Paisley, | 7. Teeswater, |
| 4. Port Elgin, | 8. Tiverton. |

R. S. O. 1887, c. 5, s. 1 (2).

3.—THE COUNTY OF CARLETON

Carleton.

Shall consist of the Townships of—

- | | |
|------------------|-----------------|
| 1. Fitzroy, | 6. March, |
| 2. Gloucester, | 7. Marlborough, |
| 3. Goulburn, | 8. Nepean, |
| 4. Gower, North, | 9. Osgoode, |
| 5. Huntley, | 10. Tarbolton. |

The City of Ottawa,
And the Villages of—

- | | |
|-----------------|--------------|
| 1. Hintonburg, | 3. Richmond. |
| 2. Ottawa East, | |

R. S. O. 1887, c. 5, s. 1 (3).

Dufferin.

4.—THE COUNTY OF DUFFERIN

Shall consist of the Townships of—

- | | |
|--------------------|----------------|
| 1. Amaranth, | 4. Melancthon, |
| 2. Garafraxa East, | 5. Mono, |
| 3. Luther, East, | 6. Mulmur, |

The Town of Orangeville.

And the Village of Shelburne. R. S. O. 1887, c. 5, s. 1 (4).

Dundas.

5.—THE COUNTY OF DUNDAS

Shall consist of the Townships of—

- | | |
|--------------|-------------------|
| 1. Matilda, | 3. Williamsburgh, |
| 2. Mountain, | 4. Winchester, |

And the Villages of—

- | | |
|------------------|-------------------------------|
| 1. Chesterville, | 3. Morrisburgh, |
| 2. Iroquois, | 4. Winchester (53 V. c. 111). |
- R. S. O. 1887, c. 5, s. 1 (5).

Durham.

6.—THE COUNTY OF DURHAM

Shall consist of the Townships of—

- | | |
|----------------|----------------|
| 1. Cartwright, | 4. Darlington, |
| 2. Cavan, | 5. Hope, |
| 3. Clarke, | 6. Manvers, |

The Towns of—

- | | |
|-----------------|---------------|
| 1. Bowmanville, | 2. Port Hope, |
|-----------------|---------------|

And the Villages of—

- | | |
|---------------|---------------|
| 1. Millbrook, | 2. Newcastle. |
|---------------|---------------|

R. S. O. 1887, c. 5, s. 1 (6).

Elgin.

7.—THE COUNTY OF ELGIN

Shall consist of the Townships of—

- | | |
|----------------------|---------------|
| 1. Aldborough, | 5. Malahide, |
| 2. Bayham, | 6. Southwold, |
| 3. Dorchester, South | 7. Yarmouth, |
| 4. Dunwich, | |

The City of St. Thomas.

The Town of Aylmer,

And the Villages of—

- | | |
|------------------|-----------------|
| 1. Dutton, | 3. Springfield, |
| 2. Port Stanley, | 4. Vienna. |

R. S. O. 1887, c. 5, s. 1 (7).

8.—THE COUNTY OF ESSEX

Essex.

Shall consist of the Townships of—

- | | |
|-----------------------|------------------------------------|
| 1. Anderdon, | 9. Pelée, |
| 2. Colchester, North, | 10. Rochester, |
| 3. Colchester, South, | 11. Sandwich, East, |
| 4. Gosfield, North, | 12. Sandwich, West, |
| 5. Gosfield, South, | 13. Sandwich, South (55 V. c. 85), |
| 6. Maidstone, | 14. Tilbury, West, |
| 7. Malden, | 15. Tilbury, North (54 V. c. 81). |
| 8. Mersea, | |

The City of Windsor (55 V. c. 92).

The Towns of—

- | | |
|-----------------|--------------------------------|
| 1. Amherstburg, | 4. Sandwich, |
| 2. Essex, | 5. Walkerville (53 V. c. 108). |
| 3. Leamington. | |

And the Villages of—

- | | |
|-----------------|----------------|
| 1. Belle River, | 2. Kingsville. |
|-----------------|----------------|

Except that the Township of Pelée shall continue to be separate, for municipal purposes, from the County of Essex.

R. S. O. 1887, c. 5, s. 1 (8).

9.—THE COUNTY OF FRONTENAC

Frontenac

Shall consist of the Townships of—

- | | |
|-------------------|-----------------------------|
| 1. Barrie, | 10. Loughborough, |
| 2. Bedford, | 11. Miller, |
| 3. North Canonto, | 12. Olden, |
| 4. South Canonto, | 13. Oso, |
| 5. Clarendon, | 14. Palmerston, |
| 6. Hinchinbrooke, | 15. Pittsborough, |
| 7. Howe Island, | 16. Portland, |
| 8. Kennebec, | 17. Storrington, |
| 9. Kingston, | 18. Wolfe Island (including |
- Simcoe Island, Horse Shoe Island and Mud Island.)

The City of Kingston,

And the Villages of—

- | | |
|-------------------|----------------|
| 1. Garden Island, | 2. Portsmouth. |
|-------------------|----------------|
- R. S. O. 1887, c. 5, s. 1 (9).

10.—THE COUNTY OF GLENGARRY

Glengarry.

Shall consist of the Townships of—

- | | |
|---------------------|---------------|
| 1. Charlottenburgh, | 3. Lancaster, |
| 2. Kenyon, | 4. Lochiel. |

And the Villages of—

- | | |
|----------------|--------------|
| 1. Alexandria. | 3. Maxville. |
| 2. Lancaster. | |

Grenville.

11.—THE COUNTY OF GRENVILLE

Shall consist of the Townships of—

- | | |
|------------------|------------------------|
| 1. Augusta, | 4. Oxford (on Rideau), |
| 2. Edwardsburgh, | 5. Wolford. |
| 3. Gower, South, | |

The Town of Prescott,

And the Villages of—

- | | |
|----------------|------------------|
| 1. Cardinal, | 3. Merrickville. |
| 2. Kemptville, | |

R. S. O. 1887, c. 5, s. 1 (11).

Grey.

12.—THE COUNTY OF GREY

Shall consist of the Townships of—

- | | |
|-----------------|--------------------|
| 1. Artemesia, | 9. Keppel, |
| 2. Bentinck, | 10. Normanby, |
| 3. Collingwood, | 11. Osprey, |
| 4. Derby, | 12. Proton, |
| 5. Egremont, | 13. Saint Vincent, |
| 6. Euphrasia, | 14. Sarawak, |
| 7. Glenelg, | 15. Sullivan, |
| 8. Holland, | 16. Sydenham, |

Together with (but exclusive of the Townships of Keppel and Sarawak) that portion of the peninsular tract of land known as the Indian Reserve, and situated between lines drawn northward from the north-east angle of Arran and the north-west angle of Derby, until they respectively strike Colpoy's Bay, on the east side of the Indian Village, and the waters of the Georgian Bay, and the Islands contiguous thereto.

The Towns of—

- | | |
|-------------|----------------|
| 1. Durham. | 3. Owen Sound. |
| 2. Meaford, | 4. Thornbury, |

And the Villages of—

- | | |
|-------------|----------------------------|
| 1. Dundalk. | 2. Markdale (51 V. c. 52). |
|-------------|----------------------------|

R. S. O. 1887, c. 5, s. 1 (12).

Haldimand.

13.—THE COUNTY OF HALDIMAND

Shall consist of the Townships of—

- | | |
|-------------------|----------------|
| 1. Canborough, | 6. Oneida, |
| 2. Cayuga, North, | 7. Rainham, |
| 3. Cayuga, South, | 8. Seneca, |
| 4. Dunn, | 9. Sherbrooke, |
| 5. Moulton, | 10. Walpole, |

And the Villages of—

- | | |
|---------------|-----------------|
| 1. Caledonia, | 3. Dunnville. |
| 2. Cayuga, | 4. Hagarsville. |

R. S. O. 1887, c. 5, s. 1 (13).

14.—THE COUNTY OF HALTON

Halton.

Shall consist of the Townships of—

- | | |
|-----------------|---------------|
| 1. Esquesing, | 3. Nelson, |
| 2. Nassagaweya, | 4. Trafalgar. |

The Towns of—

- | | |
|------------|--------------|
| 1. Milton, | 2. Oakville, |
|------------|--------------|

And the Villages of—

- | | |
|----------------|----------------|
| 1. Acton, | 3. Georgetown. |
| 2. Burlington, | |

R. S. O. 1887, c. 5, s. 1 (14).

15.—THE COUNTY OF HASTINGS

Hastings.

Shall consist of the Townships of—

- | | |
|-----------------|-----------------|
| 1. Bangor, | 13. Madoc, |
| 2. Carlow, | 14. Marmora, |
| 3. Cashel, | 15. Mayo, |
| 4. Dungannon, | 16. McClure, |
| 5. Elzevir, | 17. Monteagle, |
| 6. Faraday, | 18. Rawdon, |
| 7. Grimsthorpe, | 19. Sidney, |
| 8. Herschel, | 20. Thurlow, |
| 9. Hungerford, | 21. Tudor, |
| 10. Huntingdon, | 22. Tyendinaga, |
| 11. Lake, | 23. Wicklow, |
| 12. Limerick, | 24. Wollaston, |

The City of Belleville,

The Towns of—

- | | |
|---------------|-------------|
| 1. Deseronto, | 2. Trenton. |
|---------------|-------------|

And the Villages of—

- | | |
|--------------|-----------|
| 1. Madoc, | 3. Tweed. |
| 2. Stirling, | |

R. S. O. 1887, c. 5, s. 1 (15).

16.—THE COUNTY OF HURON

Huron.

Shall consist of the Townships of—

- | | |
|--------------|---------------------|
| 1. Ashfield, | 9. Morris, |
| 2. Colborne, | 10. Stanley, |
| 3. Goderich, | 11. Stephen, |
| 4. Grey, | 12. Tuckersmith, |
| 5. Hay, | 13. Turnberry, |
| 6. Howick, | 14. Usborne, |
| 7. Hullett, | 15. Wawanosh, East, |
| 8. McKillop, | 16. Wawanosh, West, |

The Towns of—

- | | |
|--------------|--------------|
| 1. Clinton, | 3. Seaforth, |
| 2. Goderich, | 4. Wingham, |

And the Villages of—

- | | |
|--------------|--------------|
| 1. Bayfield, | 4. Exeter, |
| 2. Blythe, | 5. Wroxeter, |

R. S. O. 1887, c. 5, s. 1 (16).

Kent.

17.—THE COUNTY OF KENT

Shall consist of the Townships of—

- | | |
|-----------------|--------------------|
| 1. Camden, | 7. Orford, |
| 2. Chatham, | 8. Raleigh, |
| 3. Dover, East, | 9. Romney, |
| 4. Dover, West, | 10. Tilbury, East, |
| 5. Harwich, | 11. Zone. |
| 6. Howard, | |

The City of Chatham,

The Towns of—

- | | |
|--------------|-----------------|
| 1. Blenheim, | 4. Ridgetown, |
| 2. Bothwell, | 5. Wallaceburg. |
| 3. Dresden, | |

And the Villages of—

- | | |
|-----------------|---|
| 1. Thamesville, | 2. Tilbury (59 V. c. 94, s. 16).
R. S. O. 1887, c. 5, s. 1 (17). |
|-----------------|---|

Lambton.

18.—THE COUNTY OF LAMBTON

Shall consist of the Townships of—

- | | |
|-----------------|--|
| 1. Bosanquet, | 8. Sarnia, |
| 2. Brooke, | 9. Sombra, including Walpole
Island, St. Anne's Island,
and the other Islands at
the mouth of the River St.
Clair, |
| 3. Dawn, | |
| 4. Euphemia, | |
| 5. Enniskillen, | |
| 6. Moore, | |
| 7. Plympton, | 10. Warwick. |

The Towns of—

- | | |
|--------------|------------|
| 1. Forest, | 3. Sarnia. |
| 2. Petrolia, | |

And the Villages of—

- | | |
|------------------|---------------------------------|
| 1. Alvinston, | 5. Thedford, |
| 2. Arkona, | 6. Watford, |
| 3. Oil Springs, | 7. Wyoming. |
| 4. Point Edward, | R. S. O. 1887, c. 5, s. 1 (18). |

Lanark.

19.—THE COUNTY OF LANARK

Shall consist of the Townships of

- | | |
|--------------------|------------------------|
| 1. Bathurst, | 8. Lanark, |
| 2. Beckwith, | 9. Lavant, |
| 3. Burgess, North, | 10. Montague, |
| 4. Dalhousie, | 11. Pakenham, |
| 5. Darling, | 12. Ramsay, |
| 6. Drummond, | 13. Sherbrooke, North, |
| 7. Elmsley, North, | 14. Sherbrooke, South, |

The Towns of—

- | | |
|--------------------|-------------------|
| 1. Almonte, | 3. Perth, |
| 2. Carleton Place. | 4. Smith's Falls, |

And the Village of Lanark.

R. S. O. 1887, c. 5, s. 1 (19).

20.—THE COUNTY OF LEEDS

Leeds.

Shall consist of the Townships of—

- | | |
|---------------------|-------------------------------|
| 1. Bastard, | 8. Kitley, |
| 2. Burgess, South, | 9. Front of Leeds and Lans- |
| 3. Crosby, North, | downe, |
| 4. Crosby, South, | 10. Rear of Leeds and Lans- |
| 5. Elizabethtown, | downe, |
| 6. Elmsley, South, | 11. Front of Yonge, |
| 7. Front of Escott, | 12. Rear of Yonge and Escott, |

The Towns of Brockville and Gananoque,

And the Villages of—

- | | |
|------------|--------------|
| 1. Athens, | 2. Newboro'. |
|------------|--------------|
- R. S. O. 1887, c. 5, s. 1 (20).

21.—THE COUNTY OF LENNOX AND ADDINGTON

Lennox and
Addington.

Shall consist of the Townships of—

- | | |
|--------------------|-----------------------------|
| 1. Abinger, | 8. Effingham, |
| 2. Adolphustown, | 9. Ernestown, |
| 3. Amherst Island, | 10. Fredericksburgh, North, |
| 4. Anglesea, | 11. Fredericksburgh, South, |
| 5. Ashby | 12. Kaladar, |
| 6. Camden, | 13. Richmond, |
| 7. Denbigh, | 14. Sheffield, |

The Town of Napanee,

And the Villages of—

- | | |
|----------|--------------|
| 1. Bath, | 2. Newburgh. |
|----------|--------------|
- R. S. O. 1887, c. 5, s. 1 (21).

22.—THE COUNTY OF LINCOLN

Lincoln.

Shall consist of the Townships of—

- | | |
|------------------|--------------------|
| 1. Caistor, | 5. Grimsby, North, |
| 2. Clinton, | 6. Grimsby, South, |
| 3. Gainsborough, | 7. Louth, |
| 4. Grantham, | 8. Niagara, |

The City of St. Catharines,

The Town of Niagara,

And the Villages of—

- | | |
|----------------|--------------------|
| 1. Beamsville, | 3. Merritton, |
| 2. Grimsby, | 4. Port Dalhousie. |
- R. S. O. 1887, c. 5, s. 1 (22).

Middlesex.

23.—THE COUNTY OF MIDDLESEX.

Shall consist of the Townships of—

- | | |
|-----------------------|---------------------|
| 1. Adelaide, | 9. McGillivray, |
| 2. Biddulph, | 10. Metcalfe, |
| 3. Caradoc, | 11. Mosa, |
| 4. Delaware, | 12. Nissouri, West, |
| 5. Dorchester, North, | 13. Westminster, |
| 6. Ekfrid, | 14. Williams, East, |
| 7. Lobo, | 15. Williams, West, |
| 8. London, | |

The City of London.

The Towns of—

- | | |
|--------------|---------------|
| 1. Parkhill, | 2. Strathroy. |
|--------------|---------------|

And the Villages of—

- | | |
|-----------------|-----------------|
| 1. Ailsa Craig, | 4. Newbury, |
| 2. Glencoe, | 5. London West, |
| 3. Lucan, | 6. Wardsville. |

R. S. O. 1887, c. 5, s. 1 (23).

Norfolk.

24.—THE COUNTY OF NORFOLK.

Shall consist of the Townships of—

- | | |
|---------------------------|-----------------------------|
| 1. Charlotteville, | 6. Walsingham, North (51 V. |
| 2. Houghton, | c. 63). |
| 3. Middleton, | 7. Windham, |
| 4. Townsend, | 8. Woodhouse, |
| 5. Walsingham, South (in- | |
| cluding Long Point), | |

The Town of Simcoe,

And the Villages of—

- | | |
|----------------|----------------|
| 1. Delhi, | 3. Port Rowan, |
| 2. Port Dover, | 4. Waterford. |

R. S. O. 1887, c. 5, s. 1 (24).

Northumber-
land.

25.—THE COUNTY OF NORTHUMBERLAND.

Shall consist of the Townships of—

- | | |
|---------------|---------------------|
| 1. Alnwick, | 6. Monaghan, South, |
| 2. Brighton, | 7. Murray, |
| 3. Cramahe, | 8. Percy, |
| 4. Haldimand, | 9. Seymour, |
| 5. Hamilton, | |

The Town of Cobourg,

And the Villages of—

- | | |
|------------------|--------------|
| 1. Brighton, | 3. Colborne, |
| 2. Campbellford, | 4. Hastings, |

R. S. O. 1887, c. 5, s. 1 (25).

26.—THE COUNTY OF ONTARIO.

Ontario.

Shall consist of the Townships of—

- | | |
|---------------|--------------------------------------|
| 1. Brock, | 7. Seugog, |
| 2. Mara, | 8. Thorah (including Canise Island), |
| 3. Pickering, | 9. Uxbridge, |
| 4. Rama, | 10. Whitby, |
| 5. Reach, | 11. Whitby, East, |
| 6. Scott, | |

The Towns of—

- | | |
|--------------|------------|
| 1. Oshawa, | 3. Whitby, |
| 2. Uxbridge, | |

And the Villages of—

- | | |
|----------------|----------------|
| 1. Beaverton, | 3. Port Perry. |
| 2. Cannington, | |

R. S. O. 1887, c. 5, s. 1 (26).

27.—THE COUNTY OF OXFORD

Oxford.

Shall consist of the Townships of—

- | | |
|--------------------|-------------------|
| 1. Blandford, | 7. Oxford, North, |
| 2. Blenheim, | 8. Oxford, East, |
| 3. Dereham, | 9. Oxford, West, |
| 4. Nissouri, East, | 10. Zorra, East, |
| 5. Norwich, North, | 11. Zorra, West, |
| 6. Norwich, South, | |

The Towns of—

- | | |
|----------------|---------------|
| 1. Ingersoll, | 3. Woodstock, |
| 2. Tilsonburg, | |

And the Villages of—

- | | |
|-----------|-------------|
| 1. Embro, | 2. Norwich. |
|-----------|-------------|

R. S. O. 1887, c. 5, s. 1 (27).

28.—THE COUNTY OF PEEL

Peel.

Shall consist of the Townships of—

- | | |
|------------------|------------------|
| 1. Albion, | 4. Toronto, |
| 2. Caledon, | 5. Toronto Gore, |
| 3. Chinguacousy, | |

The Town of Brampton,

And the Villages of—

- | | |
|------------|------------------|
| 1. Bolton, | 2. Streetsville. |
|------------|------------------|

R. S. O. 1887, c. 5, s. 1 (28).

29.—THE COUNTY OF PERTH

Perth.

Shall consist of the Townships of—

- | | |
|---|-----------------|
| 1. Blanchard, | 6. Elma, |
| 2. Downie (including the Gore of Downie), | 7. Fullarton, |
| 3. Easthope, North, | 8. Hibbert, |
| 4. Easthope, South, | 9. Logan, |
| 5. Ellice, | 10. Mornington, |
| | 11. Wallace, |

The City of Stratford.

The Towns of—

- | | |
|--------------|----------------|
| 1. Listowel, | 3. St. Mary's, |
| 2. Mitchell, | |

And the Village of Milverton.

R. S. O. 1887, c. 5, s. 1 (29).

Peterborough.

30.—THE COUNTY OF PETERBOROUGH

Shall consist of the Townships of—

- | | |
|----------------|----------------------|
| 1. Anstruther, | 9. Ennismore, |
| 2. Asphodel, | 10. Galway, |
| 3. Belmont, | 11. Harvey, |
| 4. Burleigh, | 12. Methuen, |
| 5. Cavendish, | 13. Monaghan, North, |
| 6. Chandos, | 14. Otonabee, |
| 7. Douro, | 15. Smith, |
| 8. Dummer, | |

The Town of Peterborough,

And the Villages of—

- | | |
|----------------|---------------|
| 1. Ashburnham, | 3. Lakefield, |
| 2. Havelock, | 4. Norwood. |

R. S. O. 1887, c. 5, s. 1 (30).

Prescott.

31.—THE COUNTY OF PRESCOTT

Shall consist of the Townships of—

- | | |
|----------------------|------------------------|
| 1. Alfred, | 5. Longueuil, |
| 2. Caledonia, | 6. Plantagenet, North, |
| 3. Hawkesbury, East, | 7. Plantagenet, South, |
| 4. Hawkesbury, West, | |

The Villages of—

- | | |
|----------------|--------------|
| 1. Hawkesbury, | 2. L'Orignal |
|----------------|--------------|

R. S. O. 1887, c. 5, s. 1 (31).

Prince
Edward.

32.—THE COUNTY OF PRINCE EDWARD

Shall consist of the Townships of—

- | | |
|------------------|-----------------------|
| 1. Ameliasburgh, | 5. Marysburgh, North, |
| 2. Athol, | 6. Marysburgh, South, |
| 3. Hallowell, | 7. Sophiasburgh, |
| 4. Hillier, | |

The Town of Picton,

And the Village of Wellington.

R. S. O. 1887, c. 5, s. 1 (32).

33.—THE COUNTY OF RENFREW

Renfrew.

Shall consist of the Townships of—

- | | |
|-------------------|------------------|
| 1. Admaston, | 20. Lyndoch, |
| 2. Algona, North, | 21. Maria, |
| 3. Algona, South, | 22. Matawatchan, |
| 4. Alice, | 23. McKay, |
| 5. Bagot, | 24. McNab, |
| 6. Blithfield, | 25. Pembroke, |
| 7. Bromley, | 26. Petawawa, |
| 8. Brougham, | 27. Radcliffe, |
| 9. Brudenell, | 28. Raglan, |
| 10. Buchanan, | 29. Richards, |
| 11. Burns, | 30. Rolph, |
| 12. Clara, | 31. Ross, |
| 13. Fraser, | 32. Sebastopol, |
| 14. Grattan, | 33. Sherwood, |
| 15. Griffith, | 34. Stafford, |
| 16. Hagarty, | 35. Westmeath, |
| 17. Head, | 36. Wilberforce, |
| 18. Horton, | 37. Wylie. |
| 19. Jones, | |

The Towns of—

- | | |
|--------------|-------------|
| 1. Arnprior, | 3. Renfrew. |
| 2. Pembroke, | |

And the Village of Eganville.

R. S. O. 1887, c. 5, s. 1 (33).

34.—THE COUNTY OF RUSSELL

Russell.

Shall consist of the Townships of—

- | | |
|---------------|----------------|
| 1. Cambridge, | 3. Cumberland, |
| 2. Clarence, | 4. Russell. |

And the Villages of

- | | |
|-----------------------------|--------------|
| 1. Casselman (54 V. c. 63), | 2. Rockland. |
|-----------------------------|--------------|

R. S. O. 1887, c. 5, s. 1 (34).

35.—THE COUNTY OF SIMCOE

Simcoe.

Shall consist of the Townships of—

- | | |
|-----------------------|---------------------|
| 1. Adjala, | 10. Orillia, South, |
| 2. Essa, | 11. Oro, |
| 3. Flos, | 12. Sunnidale, |
| 4. Gwillimbury, West, | 13. Tay, |
| 5. Innisfil, | 14. Tecumseth, |
| 6. Matchedash, | 15. Tiny, |
| 7. Medonte, | 16. Tosorontio, |
| 8. Nottawasaga, | 17. Vespra, |
| 9. Orillia, North, | |

The Towns of—

- | | |
|-----------------|---------------------------|
| 1. Alliston, | 5. Orillia, |
| 2. Barrie, | 6. Penetanguishene, |
| 3. Collingwood, | 7. Stayner (51 V. c. 61). |
| 4. Midland, | |

And the Villages of—

- | | |
|--------------|---------------|
| 1. Beeton, | 3. Creemore, |
| 2. Bradford, | 4. Tottenham. |
- R. S. O. 1887, c. 5, s. 1 (35); 51 V. c. 13, ss. 1 and 22, and 51 V. c. 61, s. 1. Allandale annexed to Barrie by proclamation dated 21st April, 1896.

Stormont.

36.—THE COUNTY OF STORMONT

Shall consist of the Townships of—

- | | |
|--------------|----------------|
| 1. Cornwall, | 3. Osnabruck, |
| 2. Finch, | 4. Roxborough, |

And the Town of Cornwall.

R. S. O. 1887, c. 5, s. 1 (36).

Victoria.

37.—THE COUNTY OF VICTORIA

Shall consist of the Townships of—

- | | |
|-------------|-----------------|
| 1. Bexley, | 8. Laxton, |
| 2. Carden, | 9. Longford, |
| 3. Dalton, | 10. Mariposa, |
| 4. Digby, | 11. Ops, |
| 5. Eldon, | 12. Somerville, |
| 6. Emily, | 13. Verulam |
| 7. Fenelon, | |

The Town of Lindsay,

And the Villages of—

- | | |
|-------------------|---------------|
| 1. Bobcaygeon, | 3. Omemee, |
| 2. Fenelon Falls, | 4. Woodville. |

Rev. Stat. c. 4. For judicial purposes not provided for by *The Act respecting the Provisional County of Haliburton*, the said Provisional County shall continue to be attached to and form part of the County of Victoria. R. S. O. 1887, c. 5, s. 1 (37); 51 V. c. 13, ss. 1 and 22.

Waterloo.

38.—THE COUNTY OF WATERLOO

Shall consist of the Townships of—

- | | |
|--------------------|--------------|
| 1. North Dumfries, | 4. Wilmot, |
| 2. Waterloo, | 5. Woolwich, |
| 3. Wellesley, | |

The Towns of—

- | | |
|------------|--------------|
| 1. Berlin, | 3. Waterloo, |
| 2. Galt, | |

And the Villages of—

- | | |
|--------------|---------------------------------|
| 1. Ayr, | 4. New Hamburg, |
| 2. Elmira, | 5. Preston. |
| 3. Hespeler, | R. S. O. 1887, c. 5, s. 1 (38), |

39.—THE COUNTY OF WELLAND

Welland.

Shall consist of the Townships of—

- | | |
|-----------------|----------------|
| 1. Bertie, | 5. Stamford, |
| 2. Crowland, | 6. Thorold, |
| 3. Humberstone, | 7. Wainfleet, |
| 4. Pelham, | 8. Willoughby, |

The Towns of—

- | | |
|-------------------|-------------|
| 1. Niagara Falls, | 3. Welland, |
| 2. Thorold, | |

And the Villages of—

- | | |
|------------------------------|-------------------|
| 1. Bridgeburg (58 V. c. 62), | 4. Niagara Falls, |
| 2. Chippewa, | 5. Port Colborne. |
| 3. Fort Erie, | |

R. S. O. 1887, c. 5, s. 1 (39).

40.—THE COUNTY OF WELLINGTON

Wellington.

Shall consist of the Townships of—

- | | |
|---------------------|-----------------|
| 1. Arthur, | 7. Maryborough, |
| 2. Eramosa, | 8. Minto, |
| 3. Erin, | 9. Nichol, |
| 4. Garafraxa, West, | 10. Peel, |
| 5. Guelph, | 11. Pilkington, |
| 6. Luther, West, | 12. Puslinch, |

The City of Guelph,

The Towns of—

- | | |
|------------------|----------------|
| 1. Harriston, | 3. Palmerston, |
| 2. Mount Forest, | |

And the Villages of—

- | | |
|--------------|---------------------------------|
| 1. Arthur, | 4. Elora, |
| 2. Clifford, | 5. Erin, |
| 3. Drayton, | 6. Fergus. |
| | R. S. O. 1887, c. 5, s. 1 (40). |

41.—THE COUNTY OF WENTWORTH

Wentworth.

Shall consist of the Townships of—

- | | |
|--------------|-----------------------|
| 1. Ancaster, | 5. Flamborough, East, |
| 2. Barton, | 6. Flamborough, West, |
| 3. Beverly, | 7. Glanford, |
| 4. Binbrook, | 8. Saltfleet, |

The City of Hamilton,

The Town of Dundas,

And the Village of Waterdown. R. S. O. 1887, c. 5, s. 1 (41).

York.

42.—THE COUNTY OF YORK

Shall consist of the Townships of—

- | | |
|------------------------|-----------------|
| 1. Etobicoke, | 6. Markham, |
| 2. Georgina, | 7. Scarborough, |
| 3. Gwillimbury, East, | 8. Vaughan, |
| 4. Gwillimbury, North, | 9. Whitechurch, |
| 5. King, | 10. York, |

The City of Toronto,

The Towns of—

- | | |
|---------------|--------------------------------|
| 1. Aurora. | 3. North Toronto (53 V. c. 93, |
| 2. Newmarket, | 55 V. c. 78), |
| | 4. Toronto Junction |
| | (54 V. c. 83). |

And the Villages of—

- | | |
|---------------------|-----------------|
| 1. East Toronto, | 5. Stouffville, |
| 2. Holland Landing, | 6. Sutton, |
| 3. Markham, | 7. Weston, |
| 4. Richmond Hill, | 8. Woodbridge. |

Subject, however, to the provisions of chapter 17, sec. 2.
of these Revised Statutes. R. S. O. 1887, c. 5, s. 1 (42).

Haliburton.

43.—THE PROVISIONAL COUNTY OF HALIBURTON

Shall consist of the Townships of—

- | | |
|---------------|------------------|
| 1. Anson, | 13. Hindon, |
| 2. Bruton, | 14. Lawrence, |
| 3. Cardiff, | 15. Livingstone, |
| 4. Clyde, | 16. Lutterworth, |
| 5. Dudley, | 17. McClintock, |
| 6. Dysart, | 18. Minden, |
| 7. Eyre, | 19. Monmouth, |
| 8. Glamorgan, | 20. Nightingale |
| 9. Guilford, | 21. Sherborne, |
| 10. Harburn, | 22. Snowdon, |
| 11. Harcourt, | 23. Stanhope. |
| 12. Havelock, | |

United to
Victoria for
certain judicial
purposes.

But for judicial purposes not provided for by chapter 4 of these Revised Statutes, the said Provisional County shall continue to be united to and to form part of the County of Victoria. R. S. O. 1887, c. 5, s. 1 (43).

Algoma.

44.—THE TERRITORIAL DISTRICT OF ALGOMA

Shall consist of the Townships of—

- | | |
|---------------|-------------|
| 1. Albert, | 5. Aweres, |
| 2. Anderson, | 6. Baldwin, |
| 3. Archibald, | 7. Balfour, |
| 4. Awenge, | 8. Bigelow, |

- | | |
|---|--|
| 9. Bridgland, | 58. Laird, |
| 10. Bright and
Bright Additional, | 59. Lefroy, |
| 11. Carlyle, | 60. Levack, |
| 12. Cartier, | 61. Lewis, |
| 13. Cascaden, | 62. Ley, |
| 14. Chesley, and
Chesley Additional, | 63. Long, |
| 15. Cobden, | 64. Lorne, |
| 16. Coffin, and
Coffin Additional, | 65. Louise, |
| 17. Craig, | 66. Lumsden, |
| 18. Creighton, | 67. Mack, |
| 19. Curtis, | 68. Mackinnon |
| 20. Day, | 69. May, |
| 21. Denison, | 70. Meredith, |
| 22. Dennis, | 71. Merritt, |
| 23. Deroche, | 72. Moncrieff, |
| 24. Dowling, | 73. Morgan, |
| 25. Drury, | 74. Morin, |
| 26. Dunlop, | 75. Macdonald, |
| 27. Ermatinger, | 76. McGiverin, |
| 28. Esten, | 77. McMahon, |
| 29. Fairbank, | 78. Montgomery, |
| 30. Fenwick, | 79. Nairn. |
| 31. Fisher, | 80. Otter, |
| 32. Foster, | 81. Palmer, |
| 33. Galbraith, | 82. Parke, |
| 34. Gilmor, | 83. Parkinson, |
| 35. Gladstone, | 84. Patton. |
| 36. Goschen, | 85. Pennefather, |
| 37. Gough, | 86. Plummer, and
Plummer Additional, |
| 38. Gould, | 87. Porter, |
| 39. Graham, | 88. Prince, |
| 40. Grasett, | 89. Proctor, |
| 41. Hallam, | 90. Rayside, |
| 42. Harrow, | 91. Rose, |
| 43. Hart, | 92. Rutherford, |
| 44. Haughton, | 93. Ryan, |
| 45. Haviland, | 94. Salter, |
| 46. Herrick, | 95. Scarfe, |
| 47. Hess, | 96. Shakespeare, |
| 48. Hilton, Municipality of, | 97. Shedden, |
| 49. Hodgins, | 98. Snider, |
| 50. Humboldt, | 99. Spragge, |
| 51. Hyman, | 100. St. Joseph, Municipality of, |
| 52. Jarvis, | 101. St. Mary, |
| 53. Jocelyn, Municipality of, | 102. Striker, |
| 54. Johnson, | 103. Tarbutt, and
Tarbutt Additional, |
| 55. Kars, | 104. Tarentorus, |
| 56. Kirkwood, | 105. Tennyson, |
| 57. Korah, | 106. Thessalon River, |
| | 107. Thompson, |

- | | |
|-------------------|----------------|
| 108. Tilley, | 113. Vernon, |
| 109. Totten, | 114. Victoria, |
| 110. Trill, | 115. Waters, |
| 111. Tupper, | 116. Wells, |
| 112. Vankoughnet, | 117. Whitman. |

And the Town of Sault Ste. Marie.

Together with all the remaining territory included within the following limits :—Commencing at the waters edge of the Georgian Bay of Lake Huron near the most westerly mouth of French River in the production southerly of the east limit of the Township of Humboldt; thence due north along a line formed by the said produced limit, the east limit of the said Township of Humboldt, the limit between timber berths numbered 59 and 67, 60 and 68, 61 and 69, and along the east limits of the Townships of Waters, Snider and Rayside, and continuing due north to the northerly limit of the Province; thence along the said northerly limit of the Province westerly to the meridian of eighty-five degrees west longitude; thence along the said meridian southerly to the southerly limit of the Province thence along the said southerly limit of the Province, easterly to a point in Lake Huron opposite the southern extremity of the Great Manitoulin Island; thence easterly and north-easterly, so as to include all the Islands in Lake Huron not within the settled limits of any County or District, to the place of beginning, excepting thereout the territory included within the Territorial District of Manitoulin.

Provisional
Judicial Dis-
trict of
Algoma and
Manitoulin.

The Territorial Districts of Algoma and Manitoulin form the Provisional Judicial District of Algoma and Manitoulin. R. S. O. 1887, c. 5, s. 1 (44); 51 V. c. 14, s. 1; 60 V. c. 19, s. 2 (2), s. 3 part.

45.—THE TERRITORIAL DISTRICT OF MANITOULIN

Shall consist of—

The Great Manitoulin Island, which contains the following Townships—

- | | |
|----------------|------------------|
| 1. Allan, | 9. Gordon, |
| 2. Assiginack, | 10. Howland, |
| 3. Bidwell, | 11. Mills, |
| 4. Billings, | 12. Robinson, |
| 5. Burpee, | 13. Sandfield, |
| 6. Campbell, | 14. Sheguiandah, |
| 7. Carnarvon, | 15. Tehkumah. |
| 8. Dawson. | |

The islands named Cockburn, Barrie, Fitzwilliam, Lonely Club, Wall and Rabbit.

All islands between any of the said islands and the Great Manitoulin.

The islands south of the Great Manitoulin.

Any islands which in whole or in part lie between headland and headland around the Great Manitoulin.

The land covered with water adjacent to the said islands and within a distance of one hundred yards from high water mark.

And the Towns of—

1. Gore Bay (53 V. c. 85).
2. Little Current (53 V. c. 88).

The Territorial Districts of Algoma and Manitoulin form
 "The Provisional Judicial District of Algoma and Manitoulin." Provisional
Judicial
District of
Algoma and
Manitoulin.
 51 V. c. 14, s. 1; 60 V. c. 19, s. 2 (3), s. 3 part.

46.—THE TERRITORIAL DISTRICT OF THUNDER BAY Thunder Bay.

Shall consist of the Townships of—

- | | |
|---------------|----------------------------------|
| 1. Blake, | 16. McTavish, |
| 2. Booth, | 17. Moss, |
| 3. Byron, | 18. Neebing (55 V. c. 70, s. 2), |
| 4. Conmee, | 19. Neepigon, |
| 5. Crooks, | 20. O'Connor, |
| 6. Dorion, | 21. Oliver, |
| 7. Gillies, | 22. Pic, |
| 8. Gorham, | 23. Paipoonge, |
| 9. Homer, | 24. Pardee, |
| 10. Ledger, | 25. Purdom, |
| 11. Lybster, | 26. Scoble, |
| 12. Lyon, | 27. Sibley, |
| 13. Marks, | 28. Strange, |
| 14. McGregor, | 29. Ware. |
| 15. McIntyre, | |

The Towns of—

1. Fort William (55 V. c. 70).
2. Port Arthur.

Together with the remaining territory within the Province lying west of the meridian of eighty-five degrees of west longitude and east of a line drawn due north and south through the most easterly point of Hunter's Island.

The Territorial Districts of Thunder Bay and Rainy River form "The Provisional Judicial District of Thunder Bay and Rainy River." Provisional
Judicial
District of
Thunder Bay
and Rainy
River.
 R. S. O. 1887, c. 5, s. 1 (45); 60 V. c. 19, s. 2 (1), s. 3 part.

Muskoka.

47.—THE TERRITORIAL DISTRICT OF MUSKOKA

Shall consist of the Townships of—

- | | |
|--------------|-----------------|
| 1. Baxter, | 12. Monck, |
| 2. Brunel, | 13. Morrison, |
| 3. Cardwell, | 14. Muskoka, |
| 4. Chaffey, | 15. Oakley, |
| 5. Draper, | 16. Ridout, |
| 6. Franklin, | 17. Ryde, |
| 7. Freeman, | 18. Sinclair, |
| 8. Gibson, | 19. Stephenson, |
| 9. Macaulay, | 20. Stisted, |
| 10. McLean, | 21. Watt, |
| 11. Medora, | 22. Wood, |

The Towns of—

- | | |
|-------------------------------|-----------------|
| 1. Bracebridge (52 V. c. 57). | 2. Gravenhurst. |
|-------------------------------|-----------------|

And the Villages of—

- | | |
|----------------|--------------------------------|
| 1. Huntsville, | 2. Port Carling (59 V. c. 89). |
|----------------|--------------------------------|

Together with the islands in the Georgian Bay lying west of the said territory and adjacent thereto, and the islands in the River Severn lying northerly of the middle of the main channel of the River Severn and adjacent to the Townships of Baxter, Wood and Morrison.

Provisional
Judicial
District of
Muskoka and
Parry Sound.

The Territorial Districts of Muskoka and Parry Sound form "The Provisional Judicial District of Muskoka and Parry Sound." R. S. O. 1887, c. 5, s. 1 (46); 60 V. c. 19, s. 3 part.

Parry Sound.

48.—THE TERRITORIAL DISTRICT OF PARRY SOUND

Shall consist of the Townships of—

- | | |
|----------------|-----------------|
| 1. Armour, | 23. Laurier, |
| 2. Bethune, | 24. Lount, |
| 3. Blair, | 25. Machar, |
| 4. Brown, | 26. Mills, |
| 5. Burpee, | 27. McConkey, |
| 6. Burton, | 28. McDougall, |
| 7. Carling, | 29. McKellar, |
| 8. Chapman, | 30. McKenzie, |
| 9. Christie, | 31. McMurrich, |
| 10. Conger, | 32. Monteith, |
| 11. Cowper, | 33. Mowat, |
| 12. Croft, | 34. Nipissing, |
| 13. Ferguson, | 35. Patterson, |
| 14. Ferrie, | 36. Perry, |
| 15. Foley, | 37. Pringle, |
| 16. Gurd, | 38. Proudfoot, |
| 17. Hagerman, | 39. Ryerson, |
| 18. Hardy, | 40. Shawanaga |
| 19. Harrison, | 41. Spence, |
| 20. Himsworth, | 42. Strong, |
| 21. Humphry, | 43. Wallbridge, |
| 22. Joly, | 44. Wilson. |

The Town of Parry Sound.

And the Villages of—

1. Burk's Falls (53 V. c. 83).
2. Sundridge^f (52 V. c. 72).

Together with any other territory included within the following description, that is to say:—Commencing at a point where the southerly boundary of the Township of Conger intersects the waters of the Georgian Bay, being the south-west corner of the Township of Conger; thence easterly along the southerly boundary of the Townships of Conger and Humphry to the south-east corner of the Township of Humphry; thence northerly along the easterly boundary of Humphry to the north-east corner of Humphry; thence easterly along the southerly boundaries of the Townships of Monteith, McMurrich, Perry and Bethune to the south-east corner of Bethune; thence northerly along the easterly boundaries of the Townships of Bethune, Proudfoot, Joly and Laurier to the south boundary of the Township of Himsworth; thence along the south and east boundaries of Himsworth to the north-east corner of Himsworth; thence westerly along the northerly boundary of Himsworth to Lake Nipissing; thence westerly along the main channel of said lake, and along the main channel of French River, and along the southerly boundary of the District of Nipissing to where the westerly boundary of the said District of Nipissing strikes the water's edge of the Georgian Bay; thence south-easterly along the easterly shore of the said Georgian Bay to the place of beginning, including Parry Island and the islands opposite to and along the said easterly shore of the Georgian Bay.

The Territorial Districts of Muskoka and Parry Sound form
 "The Provisional Judicial District of Muskoka and Parry Sound." R. S. O. 1887, c. 5, s. 1 (47); 60 V. c. 19, s. 3 part.

Provisional
 Judicial
 District of
 Muskoka and
 Parry Sound.

49. THE TERRITORIAL DISTRICT OF RAINY RIVER Rainy River.

Shall consist of the Townships of—

- | | |
|---------------------|--------------------------------|
| 1. Atwood, | 14. Halkirk, |
| 2. Aylesworth, | 15. Haycock, |
| 3. Barwick, and | 16. Jaffray, |
| Barwick Additional, | 17. Keewatin, Municipality of, |
| 4. Bennett, | 18. Lash, |
| 5. Blue, | 19. Morley, |
| 6. Carpenter, | 20. McCrosson, |
| 7. Crozier, | 21. McIrvine, |
| 8. Curran, | 22. Nelles, |
| 9. Devlin, | 23. Patullo, |
| 10. Dilke, | 24. Pratt, |
| 11. Dobie, | 25. Rat Portage, Municipality |
| 12. Eton. | of. |
| 13. Farrington, | 26. Roddick, |

- | | |
|----------------|------------------|
| 27. Roseberry, | 32. Watten, |
| 28. Rugby, | 33. Woodyatt, |
| 29. Shenstone, | 34. Worthington, |
| 30. Spohn, | 35. Wainwright, |
| 31. Tait, | 36. Van Horne. |

Together with any other territory within that part of the Provisional Judicial District of Thunder Bay, lying west of a line drawn due north and south through the most easterly point of Hunter's Island.

Provisional
Judicial
District of
Thunder Bay
and Rainy
River.

The Territorial Districts of Thunder Bay and Rainy River form "The Provisional Judicial District of Thunder Bay and Rainy River." R. S. O. 1887, c. 5, s. 1, (48); 60 V. c. 19, s. 3 part.

Nipissing.

50.—THE TERRITORIAL DISTRICT OF NIPISSING

Shall consist of the Townships of—

- | | |
|------------------|---------------------------------------|
| 1. Airy, | 34. Chisholm, |
| 2. Anglin, | 35. Clancy, |
| 3. Appelby, | 36. Cleland, |
| 4. Armstrong, | 37. Crerar, |
| 5. Awrey, | 38. Dack, |
| 6. Badgerow, | 39. Dana, |
| 7. Ballantyne, | 40. Davis, |
| 8. Barron, | 41. Deacon, |
| 9. Bastedo, | 42. Devine, |
| 10. Beauchamp, | 43. Dickens (formerly Rob-
inson), |
| 11. Biggar, | 44. Dickson, |
| 12. Bishop, | 45. Dill, |
| 13. Blain, | 46. Dryden, |
| 14. Blezard, | 47. Dunnet, |
| 15. Blyth, | 48. Dymond, |
| 16. Bonfield, | 49. Eby, |
| 17. Boulter, | 50. Edgar, |
| 18. Bower, | 51. Evanturel, |
| 19. Boyd, | 52. Falconbridge, |
| 20. Brethour, | 53. Fitzgerald, |
| 21. Broder, | 54. Ferris, |
| 22. Bronson, | 55. Field, |
| 23. Bryce, | 56. Finlayson, |
| 24. Bucke, | 57. French, |
| 25. Butt, | 58. Freswick, |
| 26. Caldwell, | 59. Garrow, |
| 27. Calvin, | 60. Garson, |
| 28. Cameron, | 61. Gibbons, |
| 29. Canisbay, | 62. Gladman, |
| 30. Capreol, | 63. Grant, |
| 31. Casey, | 64. Guthrie, |
| 32. Chamberlain, | 65. Hagar, |
| 33. Charlton, | |

66. Hammell,	102. Murchison,
67. Hanmer,	103. Mulock,
68. Harley,	104. Neelon,
69. Harris,	105. Niven,
70. Hawley,	106. Norman,
71. Henry,	107. Notman,
72. Henwood,	108. Olig,
73. Hilliard,	109. Osborne,
74. Hudson,	110. Osler,
75. Hugel,	111. Otto,
76. Hunter,	112. Pacaud,
77. Ingram,	113. Papineau,
78. Janes,	114. Pardo,
79. Kelly,	115. Paxton,
80. Kerns,	116. Peck,
81. Kirkpatrick,	117. Pentland,
82. Lauder,	118. Phelps,
83. Lister,	119. Preston,
84. Lockhart,	120. Rathbun,
85. Lorrain,	121. Ratter,
86. Loughrin,	122. Robillard,
87. Lyell,	123. Sabine,
88. Lyman,	124. Savard,
89. MacIennan,	125. Scadding,
90. Marquis,	126. Sharpe,
91. Marter,	127. Springer,
92. Master,	128. Sproule,
93. Mattawan,	129. Stewart,
94. McCallum,	130. Stratton,
95. McCraney,	131. Street,
96. McKim,	132. Thistle,
97. McLaughlin,	133. White,
98. McLaren,	134. Widdifield,
99. McNish,	135. Wilkes,
100. McWilliams,	136. Wisner.
101. Merrick,	

And the Towns of—

1. Mattawa (55 V. c. 75).
2. North Bay (53 V. c. 92).
3. Sturgeon Falls (58 V. c. 86).
4. Sudbury (55 V. c. 88).

Together with any other territory included within the following description:—Commencing at the water's edge of the Georgian Bay, near the most westerly mouth of French River, in the production southerly of the east limit of the Township of Humboldt; thence due north along a line formed by said produced limit, the east limit of said Township of Humboldt, the limit between timber berths numbered 59 and 67, 60 and 68, 61 and 69, and along the east limits of the Townships of Waters, Snider and Rayside and continuing due north to the northerly limit of the Province of Ontario; thence easterly along the said northerly limit to the boundary between Ontario and Quebec;

thence along the said boundary between Ontario and Quebec southerly and south-easterly to the north-west corner of the Township of Clara; thence southerly and easterly along the westerly and southerly boundaries of the Townships of Clara, Maria and Head to the westerly boundary of the Township of Rolph; thence southerly along the westerly boundaries of the Townships of Rolph, Wylie, McKay and Fraser to the north-east corner of the Township of Richards; thence westerly along the northerly boundaries of the Townships of Richards and Burns to the north-west corner of the said Township of Burns; thence southerly along the westerly boundary of Burns to the north-east corner of the Township of Jones; thence westerly along the northerly boundary of Jones to the north-east corner of the Township of Lyell; thence southerly along the easterly boundary of Lyell to the south-east corner of Lyell; thence westerly along the southerly boundaries of the Townships of Lyell and Sabine to the easterly boundary of the Township of Clyde; thence northerly along the easterly boundaries of the Townships of Clyde and Nightingale to the north-east corner of the Township of Nightingale; thence westerly along the northerly boundaries of the Townships of Nightingale, Lawrence, Livingstone and McClintock to the easterly boundary of the Township of Sinclair; thence northerly along the easterly boundary of Sinclair to the southerly boundary of the Township of Bethune; thence easterly to the south-east corner of Bethune; thence northerly along the easterly boundaries of the Townships of Bethune, Proudfoot, Joly and Laurier, to the south boundary of the Township of Himsworth; thence along the southerly and easterly boundaries of Himsworth, to the north-east corner of Himsworth; thence westerly along the northerly boundary of Himsworth to Lake Nipissing; thence westerly along the main channel of said lake and along the main channel of French river, and along the channel which runs north of the more northerly of the two islands on which the town plot of Coponaning has been laid out, to a point where the waters divide into the North channel and the Bad River channel; thence to the northern shore of the North Channel; thence along the said northern shore and the waters' edge of the Georgian Bay to the place of beginning.

Provisional
Judicial
District of
Nipissing.

The territory comprised within the Territorial District of Nipissing forms "The Provisional Judicial District of Nipissing. R. S. O. 1887, c. 5, s. 1 (49); 57 V. c. 33, s. 1; 60 V. c. 19, s. 3 part.

Express men-
tion of towns
or villages as
included in
any county or

2. The express mention herein of certain Towns and Villages as being included in certain Counties or Districts in which they would have been included without such express mention, under

the general provisions in that behalf herein contained, shall not prevent the application of such provisions to the cases of Towns and Villages not expressly mentioned. R. S. O. 1887, c. 5, s. 2.

district not to
exclude others
not mentioned.

UNITED COUNTIES, ETC.

3. For municipal, judicial and all purposes not otherwise provided for by law, the following Counties, already united, shall continue to form Unions of Counties, that is to say:

United coun-
ties.

1. Stormont, Dundas and Glengarry ;
2. Leeds and Grenville ;
3. Northumberland and Durham ;
4. Prescott and Russell ;

And for judicial purposes the Cities of—

- | | |
|--------------------|-----------------|
| 1. Toronto, | 7. Kingston, |
| 2. Hamilton, | 8. London, |
| 3. Ottawa, | 9. Guelph, |
| 4. St. Catharines, | 10. St. Thomas, |
| 5. Belleville, | 11. Stratford, |
| 6. Brantford, | |

Cities united
to counties for
judicial pur-
poses,
but not to be
part of coun-
ties for muni-
cipal purposes.

shall (subject as to the City of Toronto to section 2 of *The Act respecting the Office of Sheriff*) be respectively united to and form part of the Counties within the limits whereof they are respectively situate; but for municipal purposes the said Cities, and all Towns withdrawn from the jurisdiction of the County, shall not form part of the several Counties in which they are respectively situate. R. S. O. 1887, c. 5, s. 3.

Rev. Stat
c. 17.

4. Each of such Unions of Counties under the name of the United Counties of _____ and _____ (*naming them*), shall for all purposes (except as before excepted), so long as such Counties remain united, have in common, as if one County, all Courts, offices and institutions established by law, pertaining to Counties. R. S. O. 1887, c. 5, s. 4.

Names of
united coun-
ties.

COURTS IN COUNTIES, ETC.

5. All Courts shall continue to be held in and for the said Counties, United Counties and Districts according to law and the statutes relating to such Courts respectively. R. S. O. 1887, c. 5, s. 5.

Courts to be
held.

COURT HOUSES—GAOLS—SCHOOL HOUSES.

6. The Court Houses and Gaols, High School Houses, and all other property, real and personal, and all the offices and officers of the Counties, United Counties and Districts existing at the time this Act comes into force, shall belong to and con-

Property and
officers

tinue in the Counties, United Counties and Districts respectively of the like names under this Act, and as respects such Unions of Counties, until the dissolution thereof under the provisions of *The Municipal Act*. R. S. O. 1887, c. 5, s. 6.

Rev. Stat.
c. 223.

BOUNDARIES OF TOWNSHIPS LYING ON CERTAIN LAKES AND RIVERS.

Limits of
townships
bounded by
certain lakes
and rivers.

7. The limits of all the Townships lying on the River St. Lawrence, Lake Ontario, the River Niagara, Lake Erie, the River Detroit, Lake St. Clair, the River St. Clair, Lake Huron, the River St. Mary's and Lake Superior shall extend to the boundary of the Province in such lake or river, in prolongation of the outlines of each Township respectively; and unless herein otherwise provided, such Townships shall also include all the islands, the whole or the greater part of which are comprised within the said outlines so prolonged. R. S. O. 1887, c. 5, s. 7.

Limits of
townships on
the Ottawa.

8. The limits of the Townships lying on the River Ottawa shall in like manner extend to the boundary between the Provinces of Ontario and Quebec. R. S. O. 1887, c. 5, s. 8.

Limits of
townships in
Glengarry.

9. The limits of the Townships in the County of Glengarry shall in like manner extend to the middle of Lake St. Francis, and to the middle of the main channel of the River St. Lawrence, and unless herein otherwise provided, shall also include all the islands, the whole or the greater part of which are comprised within the outlines of the said Townships so prolonged. R. S. O. 1887, c. 5, s. 9.

Limits of
townships
on Bay of
Quinté and on
other bays,
lakes and
rivers.

10. The limits of the Townships on the Bay of Quinté, the River Trent and its lakes, Lake Simcoe, the River Severn, the River Rideau and its lakes, the River Thames, the Grand River, and any other rivers, lakes and bays not hereinbefore mentioned, shall in like manner extend to the middle of the said lakes and bays, and to the middle of the main channels of the said rivers respectively, and unless herein otherwise provided, shall also include all the islands, the whole or the greater part of which are comprised within the outlines of the said Townships so prolonged. R. S. O. 1887, c. 5, s. 10.

The last four
sections not to
extend to
islands being
townships of
themselves,
etc.

11. The last preceding four sections shall not extend to any islands or parts of islands which are Townships by themselves, or which have been expressly included in other Townships in the original surveys and plans thereof remaining of record in the office of the Commissioner of Crown Lands, or by statute, but the same shall remain parts of such Townships respectively. R. S. O. 1887, c. 5, s. 11.

NEW TOWNSHIPS.

12. All tracts of land not already included in any Township, New town- from time to time by proclamation erected into Townships, shall ships. be subject to and have the benefit of all enactments and provisions of law to which other Townships are subject or entitled, unless clearly inapplicable to such new Townships. R. S. O. 1887, c. 5, s. 12.

13. Subject to the provisions of *The Municipal Act*, Lieutenant-Governor may constitute townships, counties and unions, etc. the Lieutenant-Governor may, by Order in Council, issue a proclamation under the Great Seal of the Province, to have force of law from a day to be named therein, and thereby constitute Townships and Counties, and Unions of Townships and Counties in those parts of Ontario in which Townships and Counties, or Unions thereof, have not been constituted, and may fix the metes and boundaries thereof. R. S. O. 1887, c. 5, s. 13.

CHANGING NAMES OF TOWNSHIPS.

14. The Lieutenant-Governor in Council may by an Order Changing names of townships. in Council change the name of any township where no Letters Patent have been issued granting lands therein. Such Order in Council shall forthwith be published in the *Ontario Gazette*. 60 V. c. 14, s. 79.

GORES OF LAND.

15. The Lieutenant-Governor may, by proclamation, annex Lieut.-Governor may annex gores to adjacent townships. any gore or small tract of land not forming part of any Township, to any adjacent Township, or part to each of several adjacent Townships, and such gore or tract shall thenceforward for all purposes form part of the Township to which it is annexed. R. S. O. 1887, c. 5, s. 14.

CHAPTER 4.

An Act respecting the Provisional County of Haliburton.

TOWNSHIPS CONSTITUTING PROVISIONAL COUNTY, s. 1.	Justices of the Peace, s. 10.
UNITED TOWNSHIPS OF GLAMORGAN, CARDIFF AND MONMOUTH CONTINUED, s. 2.	Appeals from Justices, s. 11.
RIGHTS, POWERS AND LIABILITIES OF THE PROVISIONAL COUNTY AND ITS COUNCIL, ss. 3-5.	Returns of convictions, s. 12.
COMPOSITION AND PLACE OF MEETING OF COUNCIL, s. 5.	Gaols, etc., ss. 13-15, 17.
PRE-REQUISITES TO MEMBERS SITTING, ss. 6-8.	Gaoler and constables, s. 16.
ADMINISTRATION OF JUSTICE—Annexed to Victoria for judicial purposes, s. 9.	Expenses of Administration of Justice, s. 17.
	Division Courts, ss. 18-21.
	APPEALS IN ASSESSMENT CASES, s. 22.
	REGISTRARS AND REGISTRATION OF INSTRUMENTS AFFECTING LAND, ss. 23-25.
	PROVISIONS FOR HALIBURTON'S ESTABLISHMENT AS A COUNTY, ss. 26-29.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Limits of provisional county of Haliburton.

1. The Townships of Lutterworth, Anson, Hindon, Snowdon, Glamorgan, Monmouth, Cardiff, Minden, Dysart, Dudley, Harcourt, Stanhope, Guilford, Harburn, Bruton, Sherborne, Have-lock, Eyre, Clyde, McClintock, Livingstone, Lawrence and Nightingale, shall continue to form and be a Provisional County by the name of The Provisional County of Haliburton, and the inhabitants thereof shall continue to be a Provisional County Corporation, to be styled "The Corporation of the Provisional County of Haliburton." R. S. O. 1887, c. 6, s. 1.

United townships of Glamorgan, Cardiff and Monmouth.

2. The Townships of Glamorgan, Cardiff, and Monmouth shall continue to form a separate Municipality under the name of "The United Townships of Glamorgan, Cardiff and Monmouth," until separated according to law. R. S. O. 1887, c. 6, s. 2.

Rights, liabilities and powers of the provisional county corporation and council

3. Except where herein otherwise provided the said Provisional County and the Corporation and Council thereof shall have and possess respectively all the rights, powers, liabilities and incidents of a County, County Corporation and County

Council; and the Municipal Law and Statutes of Ontario, applicable to Counties, County Corporations and County Councils, and the members of such Councils, shall apply to the said Provisional County, except where inconsistent with this Act. R. S. O. 1887, c. 6, s. 3.

4.—(1) The authority of the Corporation of the Provisional County to grant aid to any railway company is hereby limited to such companies as by their special Acts are authorized to apply for aid, and the same shall be granted under and subject to such authorities and provisions as may be contained in the special Act under which the application is made. Power to aid railways.

(2) No by-law for granting aid by way of bonus or otherwise to any railway company, shall be valid, unless within three months from the time when it was duly passed, it is approved by the Lieutenant-Governor in Council.

(3) It shall not be necessary in any such by-law to set out the amount of rateable property. R. S. O. 1887, c. 6, s. 4; 60 V. c. 15, Sched. A (2).

PROVISIONAL COUNTY COUNCIL.

5. The Reeves and Deputy-Reeves of the Municipalities within the Provisional County shall compose the Council thereof; and the meetings of the Council shall be held at the place within the County where the Registry Office is kept. R. S. O. 1887, c. 7, s. 5. Council, how composed, and meetings of.

6.—(1) No reeve or deputy-reeve shall take his seat in the Provisional County Council until he has filed with the clerk of such council a certificate of the clerk of the local municipality, under his hand, and the seal of the municipal corporation, that such reeve or deputy-reeve was duly elected, and has made and subscribed the declarations of office and qualification as such reeve or deputy-reeve; nor, in case of a deputy-reeve, until he has also filed with the clerk of the Provisional County Council an affirmation or declaration of the clerk or other person having the legal custody of the last revised voters' list for the municipality which he represents, that there appear upon such voters' list the names of at least 500 persons, entitled to vote at municipal elections, for the first deputy-reeve elected for the municipality, and that no alteration reducing the limits of the municipality, and the number of persons on said list entitled to vote at municipal elections, below 500 for each additional deputy-reeve, has taken place since the said voters' list was last revised. Certificates as to election and number of voters to be filed by reeves and deputy-reeves.

(2) In counting the names of voters referred to in this section, the name of the same person shall not be counted more than once in any municipality whether the name of such person appears upon the voters' lists only once or more than once. 55 V. c. 42, s. 65. No voter to be counted twice.

Form of certificate as to election, etc.

7. The certificate may be in the following form :

I, A. B., of _____, Clerk of the Corporation of the Township (Town or Village as the case may be) of _____, in the Provisional County of Haliburton, do hereby, under my hand and the seal of the said Corporation, certify that C. D., of _____, Esquire, was duly elected Reeve (or Deputy-Reeve as the case may be), of the said Township (Town or Village as the case may be), and has made and subscribed the declaration of office and qualification as such Reeve (or Deputy-Reeve, as the case may be).

Given under my hand and the seal of the said Corporation of _____ at _____, in the said Township (Town or Village as the case may be), this _____ day of _____ A.D. 18 _____.

{ Seal of the }
{ Municipal }
{ Corporation. }

A.B.
Township (Town or Village Clerk.
59 V. c. 42, s. 66.

Form of declaration as to number of voters.

8. The declaration in section 6 mentioned may be in the following form :

I, A. B., of _____, Gentleman, Clerk of the Township (Town or Village, as the case may be) of _____, in the County of _____ do hereby declare and affirm as follows :

(1) That I am the person having the legal custody of the last revised voters' list for the said Township (Town or Village as the case may be).

(2) That there appear upon the said list the names of at least hundred (500 for each Deputy Reeve) persons entitled to vote at municipal elections in the said Township (Town or Village as the case may be).

(3) That no alteration reducing the limits of the said municipality, and the number of persons entitled to vote at municipal elections, below hundred (500 for each Deputy Reeve), has taken place since the said list was last revised.

(4) That in counting the names of the voters on the said list, the names of the voters thereon have not, to the best of my information, knowledge or belief, been counted more than once, whether they appear upon the said list once or more than once.

A. B.

55 V. c. 42, s. 67.

ADMINISTRATION OF JUSTICE.

Annexed for certain judicial purposes to county of Victoria.

9. The said Provisional County shall, for judicial purposes not provided for by this Act, be united to and form part of the County of Victoria; and the various provisions of the law as to the holding of Courts, and as to the officers of such Courts, and respecting judicial process and proceedings, including the selection of jurors, applicable to Unions of Counties, shall apply to the judicial union except where inconsistent with this Act. The Judge of the County Court of the County of Victoria shall hold the Division Courts in the said Provisional County. R. S. O. 1887, c. 6, s. 6.

10.—(1) Justices of the Peace appointed for the County of Peterborough, for the County of Victoria, or for the District of Nipissing, respectively, who at the time of the formation of the Provisional County resided within the said Provisional County shall be Justices of the Peace for the Provisional County of Haliburton, and shall not act as Justices of the Peace for the County of Peterborough, or Victoria, or for the District of Nipissing, except that the Justices of the Peace of the County of Victoria when sitting in the General Sessions of the Peace shall have jurisdiction in Haliburton; and save as aforesaid, no Justice of the Peace of either of the said Counties of Peterborough and Victoria shall, as such, have any jurisdiction within Haliburton. Justices of the Peace.

(2) The Justices of the Peace for Haliburton shall be entitled to sit in the General Sessions held for the said judicial union. R. S. O. 1887, c. 6, s. 7.

11. Where, according to the general laws of this Province, in matters within the legislative authority of the Legislature of this Province, an appeal lies from the decision of any Justice or Justices of the Peace, to the General Sessions of the Peace, the appeal, in cases arising in the said Provisional County, shall lie to, and may be brought before, and heard and determined by the Court of General Sessions of the Peace for the County of Victoria, and shall be claimed, and allowed, and prosecuted in the same manner and within the same period as if the same had arisen within the limits of the said County. Appeal from decisions of justices of the peace. R. S. O. 1887, c. 6, s. 8.

12. All returns of convictions required by law to be made by any Justice of the Peace for the Provisional County shall be made to the Clerk of the Peace for the judicial union. Returns of convictions. R. S. O. 1887, c. 6, s. 9.

13. The Lieutenant-Governor may from time to time direct that one or more suitable gaols or lock-ups shall be provided by the Commissioner of Public Works, in the Provisional County. Erection of gaols. R. S. O. 1887, c. 6, s. 10.

14. Every gaol or lock-up erected in the Provisional County of Haliburton under the authority of the Lieutenant-Governor, shall be a Common Gaol of the Provisional County, and of the County of Victoria, for the safe custody of persons charged with the commission, within the Provisional County, of crimes, or with the commission therein of offences against any statute of this Province, or against any municipal by-law, who may not have been finally committed for trial; or for the safe custody of persons finally committed for trial, charged as afore- Gaols in Haliburton to be Common Gaols of Haliburton and Victoria.

said, who are to be tried within the Provisional County; or for the confinement of persons sentenced within the Provisional County for crimes, or for offences aforesaid, for periods not exceeding one month; or for the confinement of persons sentenced as aforesaid for periods exceeding one month, until such persons can be conveniently removed to the Gaol at Lindsay, or other lawful prison to which they are sentenced. R. S. O. 1887, c. 6, s. 11.

May commit
to the gaol
at Lindsay.

15. Nothing contained in the next preceding section shall be construed to prevent any Court, or Magistrate from directing the committal, either for safe custody, or for punishment, of any person whom it may be considered expedient to commit to the Common Gaol at Lindsay. R. S. O. 1887, c. 6, s. 12.

Appointment
of gaoler and
constables;
salary of
gaoler.

16. The Judge of the County Court of the County of Victoria shall have authority to appoint a gaoler and such constables as may be necessary in the said Provisional County; and the salary of the gaoler shall be provided by the Council, subject to the proper proportion thereof being repaid, according to the rule governing in other Counties. R. S. O. 1887, c. 6, s. 13.

Contribution
by Haliburton
towards ex-
penses of
administration
of justice, etc.

17. The Provisional County shall bear and pay to the municipal County of Victoria, its just share of all charges and expenses of repairing and maintaining the Court house and Gaol at Lindsay, and of the care and maintenance of prisoners, and the other expenses of administration of justice, in the same manner as Towns separated from the municipal jurisdiction of Counties; and the provisions of the municipal law for the determination of the compensation to be paid, which are applicable between Counties and separate Towns, shall apply to the said municipal County and the said Provisional County. R. S. O. 1887, c. 6, s. 14.

Division Courts.

General pro-
visions of law
to apply.

18. The provisions of law from time to time in force relating to Division Courts in Counties and the officers thereof shall apply to the Division Courts of the Provisional County, except where inconsistent with this Act. R. S. O. 1887, c. 6, s. 15.

Limits of
Division
Courts.

19. The Division Courts wholly within the limits of the Provisional County shall continue Division Courts thereof, and territory belonging to a Division Court not wholly within the Provisional County shall continue to belong to such Division Court until a change is made under the next section. R. S. O. 1887, c. 6, s. 16.

20. The Lieutenant-Governor in Council may divide the Provisional County into as many Division Court divisions as he may consider requisite, and may number the same consecutively, and may from time to time alter the number, limits and extent of every division. Power to alter divisions of Division Courts. R. S. O. 1887, c. 6, s. 17.

21. A court shall, unless the Lieutenant-Governor in Council otherwise directs, be held in every division once in every three months, or oftener, at the discretion of the Judge who may appoint, and may from time to time alter the times and places within the divisions, when and at which such Courts shall be held, subject to the approval of the Lieutenant-Governor in Council. Times and places for holding court in each division. R. S. O. 1887, c. 6, s. 18.

APPEALS IN ASSESSMENT CASES.

22. An appeal shall lie from the decision of the Court of Revision of any Municipality within the Provisional County to the Judge of the County Court of the County of Victoria. Appeal from Court of Revision to Judge. R. S. O. 1887, c. 6, s. 19.

REGISTRARS AND REGISTRATION OF DEEDS.

23. The Lieutenant-Governor may from time to time appoint a Registrar of deeds, in and for the Provisional County, who shall hold office during pleasure; and the Registrar shall register all deeds and other conveyances and instruments relating to lands, situate in any part of the Provisional County, and laid out and surveyed by the Crown. Registrar of deeds; registrations. R. S. O. 1887, c. 6, s. 20.

24. The said Registrar shall keep his office in a place to be named for that purpose in his commission, or at such other place as may be from time to time appointed by the Lieutenant-Governor in Council; and his duties shall be the same as the duties of other Registrars under the registry laws of this Province; and his fees shall be the same as those appointed and established by the registry laws. Registry office. Duties and fees of Registrar. R. S. O. 1887, c. 6, s. 21.

25. The provisions of law relating to securities to be given by Registrars in other parts of Ontario shall apply to the Registrar of deeds of the said Provisional County, except that the covenant to be given by such Registrar shall be for such an amount as the Lieutenant-Governor in Council may determine. Security by Registrar. R. S. O. 1887, c. 6, s. 22.

PROVISIONS FOR ESTABLISHMENT AS A COUNTY.

26. The Council of the Provisional County may acquire the necessary property, at any place within the County that the Council may determine, on which to erect a Court-House, Gaol Power to erect court-house, gaol and registry office.

and Registry Office, and may erect a Court-House, Gaol and Registry Office thereon adapted to the wants of the County, and in conformity with any statutory or other rules and regulations respecting such buildings, and may pass by-laws for such purposes. R. S. O. 1887, c. 6, s. 24.

Appointment
of County
Judge, Sheriff,
and other
officers.

27. After a sufficient Court-House, Gaol and Registry Office have been built in such Provisional County, the Lieutenant-Governor may, upon application of the Council, require the appointment of a Judge for the Provisional County and shall appoint a Sheriff, a Coroner or Coroners, a Clerk of the Peace, a Clerk of the County Court, a Registrar, and at least twelve Justices of the Peace, and shall provide in the commissions that the appointments are to take effect on the day the County of Haliburton becomes disunited from the judicial union. R. S. O. 1887, c. 6, s. 25.

Power to erect
into a separate
county.

28. After the appointments are made, the Lieutenant-Governor shall, by proclamation, erect the said Provisional County into a County, and shall separate the Provisional County from the County of Victoria, and shall declare that such separation shall take effect at a day to be named in the proclamation, and on that day the Courts and officers of the said union (including Justices of the Peace) shall cease to have any jurisdiction in the County of Haliburton, subject, however, to the exceptions in the next section provided for. R. S. O. 1887, c. 6, s. 26.

Judicial pro-
ceedings on
separation.

29. The provisions of law, with reference to judicial proceedings, applicable in the case of the separation of a Junior from a Senior County, shall apply in the case of the separation of the Provisional County from the County of Victoria. R. S. O. 1887, c. 6, s. 27.

POWER OF TOWNSHIPS AND VILLAGES TO AID GRIST MILLS,

Municipalities
in Haliburton
authorized to
aid in estab-
lishing grist-
mills.

30.—(1) Subject as hereinafter provided the council or councils of any one or more townships or village municipalities in the Provisional County of Haliburton may pass a by-law or by-laws for granting aid to secure the establishment of a grist mill in such township or village, by taking stock in any such enterprise to an amount not exceeding, under the powers hereby conferred, one-half of the actual cost of establishing the mill nor, in any event, to a greater amount than \$3,000, and may issue debentures for the purpose of paying for such stock and may do all other acts in connection therewith as if the power to grant bonuses were still vested in municipalities.

(2) No such aid by way of subscribed stock shall be given until after the passing of a by-law by the municipal council for the purpose and the adoption of such by-law by the qualified electors as provided by *The Municipal Act*, in the case of by-laws for the creation of debts, and except as herein otherwise provided, all the provisions of the said Act relating to the creation of debts and the assent of the qualified rate-payers shall apply.

By-law to be passed by council and assented to by electors. Rev. Stat. c. 223.

(3) In case two or more municipalities join in granting aid as in this section provided the by-law shall in addition to the other provisions and requirements of this section, receive a majority of the votes cast in each such municipality.

(4) Notwithstanding anything in the preceding subsections contained, the vote of two-thirds in the affirmative of the rate-payers who are entitled to vote upon any by-law granting aid to, or for promoting the establishment of a grist mill or for lending money thereto shall be necessary in order to the carrying of the by-law.

By-laws to require assent of two-thirds of qualified ratepayers.

(5) No such aid shall be granted for the establishment of a grist mill in a location less than twenty miles from any grist mill established in the said county and in operation on the 13th day of April, 1897.

Bonus not to be granted where mill already established.

(6) In addition to the certificate required by section 364 of *The Municipal Act*, the clerk, in case of a majority of votes being in favour of the by-law, shall further certify whether or not, as shown by the voters' list such majority appears to be two-thirds of all the voters who are entitled to vote on the by-law and a clear majority of the votes cast in each municipality.

Clerk to certify as to majority. Rev. Stat. c. 223.

(7) In case of a dispute as to the result of the vote on any by-law submitted under this section, the Judge of the County Court of the County of Victoria shall have the same powers for determining the question as he has in any case of a scrutiny of votes.

Deciding disputes as to result of vote.

(8) The petition to the Judge may be by an elector or by the council; and the proceedings for obtaining the judge's decision shall be the same as nearly as may be as in the case of a scrutiny.

Proceedings.

(9) Sections 245 to 258, 338 to 365 and sections 367 to 374 inclusive, of *The Municipal Act* and their subsections, shall be taken and considered as part of this section.

Application of certain provisions of Rev. Stat., c. 223.

(10) Except as herein otherwise provided all the provisions of *The Municipal Act*, relating to the creation of debts, the issue of debentures and the time and manner of repayment of the same, shall apply to any by-law passed under this section.

Certain general provisions of Rev. Stat., c. 223, to apply.

Council may
appoint a
representative
on board of
directors.

(11) The council of each municipality taking stock in the company as herein provided shall annually at its first meeting for the year elect from among its members a representative of such council to the board of directors of the company and such representative shall be entitled to sit and vote at all meetings of the board and to vote at all meetings of shareholders in respect of the stock held by the municipality which he represents. 60 V. c. 45, s. 24.

CHAPTER 5.

An Act for the establishment of Provisional Counties in Muskoka and Parry Sound.

TOWNSHIPS SEPARATE FROM COUNTIES, s. 1 (1).	Powers of, s. 4.
BY-LAWS, ETC., CONTINUED, s. 1 (2).	PROVISIONAL COUNTY COUNCIL, s. 5.
PROVISIONAL COUNTIES MAY BE FORMED, ss. 2, 3.	DIVISION COURT DIVISIONS, s. 6.
	UNION OF TOWNSHIPS, s. 7.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

TOWNSHIPS TO CONTINUE SEPARATE FROM COUNTIES.

1.—(1) Except for the purposes of *The Canada Temperance Act* the several municipalities, townships and other lands in the Districts of Muskoka and Parry Sound, shall continue separated for municipal purposes from the counties to which for municipal purposes they, previous to the 23rd day of March, 1888, respectively belonged. Municipalities in district separated from counties for municipal purposes. C. S. C. c. 106.

(2) The by-laws now in force in the said municipalities shall continue in force until repealed or altered by proper authority. Licenses heretofore granted shall continue in force therein according to the tenor thereof. 51 V., c. 13, s. 22. Existing by-laws and licenses to continue in force.

FORMATION INTO A PROVISIONAL COUNTY.

2. In case the majority of the reeves and deputy-reeves of the municipalities within either of the said territorial districts, or within any part of the Provisional Judicial District of Muskoka and Parry Sound previously designated for this purpose by order of the Lieutenant-Governor in Council, shall, in the month of February in any year, petition the Lieutenant-Governor in Council in this behalf, the Lieutenant-Governor may, by his proclamation, if he thinks fit, form the municipalities in the said district, or other territory designated as aforesaid, into a Provisional County. 51 V., c. 13, s. 23. Formation of municipalities into provisional county by proclamation.

3.--(1) If the proclamation is issued in respect of Muskoka, the district of Muskoka shall form and be a Provisional County, by the name of the Provisional County of Muskoka; and the inhabitants thereof shall be a Provisional County corporation, and be styled, "The Corporation of the Provisional County of Muskoka." "Provisional County of Muskoka."

(2) If the proclamation is issued in respect of Parry Sound, the district of Parry Sound shall form and be a Provisional County, by the name of the Provisional County of Parry Sound; "Provisional County of Parry Sound."

and the inhabitants thereof shall be a Provisional County corporation, by the name of "The Corporation of the Provisional County of Parry Sound."

Provisional
Counties other
than the pre-
ceding.

(3) If the proclamation is issued in respect of any other territory designated as aforesaid, the said territory shall form and be a Provisional County by name to be declared by the proclamation; and the inhabitants shall be a Provisional County corporation by the name so declared. 51 V. c. 13, s. 24.

Powers of
provisional
corporations.

4. Any Provisional County corporation formed under this Act, and the council thereof, shall have all the rights, powers, liabilities, and incidents of a county corporation and county council; and the municipal law and statutes applicable to counties, county corporations, and county councils, and the members of such councils, shall apply to every Provisional County so formed, except where inconsistent with this Act. 51 V. c. 13, s. 25.

PROVISIONAL COUNTY COUNCIL.

How council
of provisional
county to be
composed.

5. The reeves and deputy-reeves of the municipalities within the Provisional County shall compose the council thereof, and the first meeting of the council shall be at such place and time as the Lieutenant-Governor, by proclamation, may appoint; and the Lieutenant-Governor may in the proclamation name one of the members to preside in the council until a warden has been elected, and may name some place as the county town. 51 V. c. 13, s. 26.

DIVISION COURT DIVISIONS.

Division
courts.

6. The Division Court divisions existing at the time of the formation of a Provisional County shall continue until changed by competent authority, but in the names of the Courts the "Provisional County of Muskoka," and the "Provisional County of Parry Sound," or as the case may be, shall be substituted for the "District of Muskoka," and the "District of Parry Sound," respectively. 51 V. c. 13, s. 27.

UNION OF TOWNSHIPS.

Union of un-
incorporated
townships to
adjacent cor-
porations.

7.—(1) In case a township, or two or more adjacent townships in the Provisional County, and not belonging to any incorporated union of townships, is or are not incorporated, and in case such township or adjacent townships has or have together not less than one hundred inhabitants, the council of the Provisional County may by by-law unite such township or townships for municipal purposes to some adjacent incorporated township, or form such township or townships into an independent township or union of townships.

Provisions of
by-law.

(2) The by-law shall name the place for holding the first election and the returning officer who is to hold the same; and every by-law forming a union of townships shall designate the order of seniority of the townships so united. 51 V. c. 13, s. 28.

SECTION III.

LEGISLATIVE ASSEMBLY AND ELECTIONS.

CHAPTER 6.

An Act respecting the Representation of the People in
the Legislative Assembly.

NUMBER OF ELECTORAL DISTRICTS, s. 1.	TOWNS AND VILLAGES, TO WHAT ELECTORAL DISTRICT TO BE- LONG, ss. 8-13.
COUNTIES, CITIES, TOWNS AND VIL- LAGES DEFINED. s. 2.	ELECTORAL DISTRICTS—
COUNTIES AND RIDINGS TO INCLUDE PLACES WITHIN LIMITS NOT BEING PART OF OTHER ELECTORAL DIS- TRICTS, ss. 3-5.	Counties divided into Ridings, s. 14. Tracts of territory forming Elec- toral Districts, ss. 15-17.
TERRITORY ADDED TO CITIES, TOWNS AND VILLAGES, ss. 6, 7.	Each Electoral District, except Ottawa to be represented by one member, s. 18.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

1. The Province shall, for the purpose of the election of members to serve in the Legislative Assembly, be divided into the ninety-three Electoral Districts set forth in this Act. Electoral districts to be ninety-three.
R. S. O. 1887, c. 7, s. 1; 57 V. c. 2.

2. Except in so far as it is otherwise provided in this Act, the Counties herein referred to are those mentioned in chapter 3 of these Revised Statutes (or other statutes in force in the Province, concerning Territorial Divisions); and the Cities, Towns and Villages herein referred to are those mentioned in the statutes, by-laws or proclamations, describing or defining the said Cities, Towns or Villages for municipal purposes. Counties, cities, towns and villages intended in this Act.
R. S. O. 1887, c. 7, s. 2; 60 V. c. 15, Sched. A (3).

What counties
and ridings
include

3. For the purposes of this Act, the Counties and Ridings herein mentioned include every place lying within their respective limits, and not expressly included by this Act within the limits of some other Electoral District. R. S. O. 1887, c. 7, s. 3.

Augmenta-
tions and
gores of town
ships.

4. Unless where otherwise specially provided, all augmentations or gores of Townships not specially mentioned in this Act, shall be considered as forming part of the County or Riding in which the principal part of such locality is situate. R. S. O. 1887, c. 7, s. 4.

Cities con-
stituting
Electoral
Districts not
to form part
of the counties
within which
they lie.

5. The several Cities which under this Act are entitled to elect a member or members to represent them respectively in the Legislative Assembly, shall not, for the purpose of representation in the Legislative Assembly, be deemed to form part of the Counties or Ridings within the limits whereof they respectively lie. R. S. O. 1887, c. 7, s. 5.

When limits
of Cities en-
larged.
Rev. Stat.
c. 223.

6. Subject to section 24 of *The Municipal Act*, where territory is hereafter added for municipal purposes, to a City which is an Electoral District, such Electoral District shall include the territory so added for municipal purposes. R. S. O. 1887, c. 7, s. 6.

Territory ad-
ded to town or
village.

7. Subject to section 24 of *The Municipal Act*, where territory is hereafter added for municipal purposes to a Town or Village belonging to an Electoral District other than that to which such territory previously belonged; or where a Town with additional territory is erected into a City, or a Village with additional territory is erected into a Town, the territory so added for municipal purposes, shall belong to the Electoral District of which the Town or Village forms a part. R. S. O. 1887, c. 7, s. 7.

Cities and
towns formed
with addition-
al territory.

Towns and
villages not
expressly
attached to
any electoral
district.

8. Every Town and Incorporated Village not expressly attached by this or any other Act of the Legislature to an Electoral District, shall, for electoral purposes, be taken as part of the County to which such Town or Village belongs for municipal purposes, and in case the County is divided into Ridings, such Town or Village shall be part of that Riding to which it is adjacent, or within the boundaries of which it is situate. R. S. O. 1887, c. 7, s. 8.

Town or vil-
lage composed
of portions
of two ridings.

9. Every Town or Incorporated Village lying within the boundaries of two or more Ridings of a County, and not expressly included within some Electoral District, shall belong to that Riding which, by the census then last taken under the authority of the Government of the Dominion of Canada and published in the *Canada Gazette*, had the smaller population. For the purposes of this section, every Electoral District to which any portion of a County is attached, shall be deemed a Riding of that County. R. S. O. 1887, c. 7, s. 9 (1).

10. In case any Town or Incorporated Village situate in part within two or more Counties, is attached to a Union of Counties for municipal purposes, the provisions of the next preceding two sections of this Act shall be applied as if such Union constituted one County, and as if the Electoral Districts into which the Union is divided were Ridings of that County; and in case a Town, situate as in either of the said next preceding two sections mentioned, is not attached to a County or Union of Counties for municipal purposes, the provisions of the said sections and of this section shall apply thereto, except that wherever in the said sections the word "municipal" occurs, the word "judicial" shall be substituted therefor. R. S. O. 1887, c. 7, s. 10.

11. In order to determine the Riding or other Electoral District to which, under the preceding two sections a Village or Town belongs, the population by the then last census of that portion of the territory of the Village or Town in question which was within each Riding or other Electoral District shall be computed as part of the population of such Riding or other Electoral District, unless the population of such Village or Town appears in the census, in which case the population shall not be computed in any of the Electoral Ridings or Districts. R. S. O. 1887, c. 7, s. 11.

12. In case a Village hereafter becomes incorporated in respect of which it may appear to the Lieutenant-Governor in Council to be impossible to ascertain from the census the population of the territory comprising the Electoral Districts within which the Village lies, the Lieutenant-Governor in Council may, by proclamation, declare that by reason of such impossibility section 9 cannot be applied to the Village; and after the proclamation issues the electors entitled to vote in the Village shall be entitled to vote in the Riding or Electoral District in which they would be entitled to vote if the village had not become incorporated. R. S. O. 1887, c. 7, s. 12 (1).

13. The express mention herein of certain Towns and Villages as being included in certain Counties and Ridings, in which they would have been included without such express mention, under the general provisions in that behalf herein contained, shall not prevent the application of such provisions to the cases of Towns and Villages not expressly mentioned herein. R. S. O. 1887, c. 7, s. 13.

ELECTORAL DISTRICTS.

14.—(1) The following Counties shall be divided into Ridings for the purpose of representation in the Legislative Assembly, and each of the Ridings shall form an Electoral District. R. S. O. 1887, c. 7, s. 14.

Brant.

(2) THE COUNTY OF BRANT shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

1. The North Riding shall consist of the Townships of South Dumfries, Onondaga, Tuscarora, the northerly portion (hereinafter described) of the Township of Brantford, and the Town of Paris.
2. The South Riding shall consist of the Townships of Burford, Oakland, the southerly portion of the Township of Brantford, and the City of Brantford.

The said northerly portion of the Township of Brantford shall include and consist of all that portion of the said Township which lies on the northerly side of the Grand River: And the said southerly portion of the said Township shall include and consist of all the remainder of the said Township of Brantford. R. S. O. 1887, c. 7, s. 14 (1, 2).

Bruce.

(3) THE COUNTY OF BRUCE shall be divided into three Ridings, to be called respectively the South Riding, the Centre Riding, and the North Riding.

3. The South Riding shall consist of the Townships of Brant, Carrick, Culross and Kinloss, the Town of Walkerton, and the Villages of Lucknow and Teeswater.
4. The Centre Riding shall consist of the Townships of Greenock, Kincardine, Elderslie and Huron, the Town of Kincardine, and the Villages of Paisley and Chesley.
5. The North Riding shall consist of the Townships of St. Edmunds, Lindsay, Eastnor, Albemarle, Amabel, Arran, Saugeen and Bruce, the Town of Wiarton, and the Villages of Southampton, Port Elgin, Tara, and Tiverton. R. S. O. 1887, c. 7, s. 14 (3, 4, 5).

Durham.

(4) THE COUNTY OF DURHAM shall be divided into two Ridings, to be called respectively the East Riding and the West Riding.

6. The East Riding shall consist of the Townships of Cavan, Manvers, and Hope, the Town of Port Hope, and the Village of Millbrook.
7. The West Riding shall consist of the Townships of Clarke, Darlington, and Cartwright, the Town of Bowmanville, and the Village of Newcastle. R. S. O. 1887, c. 7, s. 14 (6, 7).

Elgin.

(5) THE COUNTY OF ELGIN shall be divided into two Ridings, to be called respectively the East Riding and the West Riding.

8. The East Riding shall consist of the Townships of Bayham, Malahide, Yarmouth, South Dorchester, the Town of Aylmer, and the Villages of Port Stanley, Springfield and Vienna.

9. The West Riding shall consist of the Townships of Southwold, Dunwich, and Aldborough, the City of St. Thomas, and the Village of Dutton. R. S. O. 1887, c. 7, s. 14 (8, 9).

(6) THE COUNTY OF ESSEX shall be divided into two Ridings, *Essex*, to be called respectively the North Riding and the South Riding.

10. The North Riding shall consist of the Townships of Anderdon, Rochester, Maidstone, Sandwich East, Sandwich West and Sandwich South, the City of Windsor, the Towns of Sandwich and Walkerville, and the Village of Belle River.
11. The South Riding shall consist of the Townships of Mersea, Gosfield North, Gosfield South, Colchester North, Colchester South, Malden, Pelée, Tilbury West and Tilbury North, the Towns of Amherstburg, Essex and Leamington, and the Village of Kingsville. R. S. O. 1887, c. 7, s. 14 (10, 11).

(7) THE COUNTY OF GREY shall be divided into three Ridings, *Grey*, to be called respectively the North Riding, the South Riding, and the Centre Riding.

12. The North Riding shall consist of the Townships of St. Vincent, Sydenham, Derby, Keppel and Sarawak, and the Towns of Owen Sound and Meaford.
13. The South Riding shall consist of the Townships of Bentinck, Glenelg, Normanby, Proton and Egremont, the Town of Durham and the Village of Dundalk.
14. The Centre Riding shall consist of the Townships of Osprey, Collingwood, Artemesia, Sullivan, Euphrasia, and Holland, the Town of Thornbury and the Village of Markdale. R. S. O. 1887, c. 7, s. 14 (12, 13, 14); 51 V. c. 52, s. 10.

(8) THE COUNTY OF HASTINGS shall be divided into three Ridings, *Hastings*, to be called respectively the North Riding, the East Riding, and the West Riding.

15. The North Riding shall consist of the Townships of Rawdon, Huntingdon, Elzevir, Madoc, Marmora, Lake, Tudor, Bangor, Carlow, Cashel, Dungannon, Faraday, Grimsthorpe, Herschel, Limerick, Mayo, McClure, Monteagle, Wicklow and Wollaston, and the Villages of Madoc and Stirling.
16. The East Riding shall consist of the Townships of Thurlow, Tyendinaga, and Hungerford, the Town of Deseronto, and the Village of Tweed.

17. The West Riding shall consist of the City of Belleville, the Township of Sydney, and the Town of Trenton. R. S. O. 1887, c. 7, s. 14 (15, 16, 17); 52 V. c. 2, s. 3.

Huron.

(9) THE COUNTY OF HURON shall be divided into three Ridings, to be called respectively the South Riding, the East Riding, and the West Riding.

18. The South Riding shall consist of the Townships of Tuckersmith, Usborne, Stephen, Hay, and Stanley, that portion of the Township of Goderich south of the line known as "the Cut Line" and Huron Road, the Town of Seaforth, and the Villages of Bayfield and Exeter.

19. The East Riding shall consist of the Townships of Howick, Grey, Morris, McKillop and Turnberry, that part of the Township of Hullett which lies east of the road commonly called the Gravel Road, and the Villages of Brussels and Wroxeter.

20. The West Riding shall consist of the Townships of Ashfield, Wawanosh (East and West) and Colborne, that part of the Township of Hullett which lies west of the road commonly called the Gravel Road, and that part of the Township of Goderich north of the said Huron Road and "Cut Line," and the Towns of Goderich, Wingham and Clinton, and the Village of Blythe. R. S. O. 1887, c. 7, s. 14 (18, 19, 20).

Kent.

(10) THE COUNTY OF KENT shall be divided into two Ridings to be called respectively the East Riding and the West Riding.

21. The East Riding shall consist of the Townships of Zone, Camden (with the Gore thereof), Orford, Howard, and Harwich, the Town of Bothwell, and the Villages of Blenheim, Dresden, Ridgetown, and Thamesville.

22. The West Riding shall consist of the Townships of Romney, East Tilbury, Raleigh, Dover East, Dover West, and Chatham, the City of Chatham, the Town of Wallaceburg, and the Village of Tilbury. R. S. O. 1887, c. 7, s. 14 (21, 22).

Lambton.

(11) THE COUNTY OF LAMBTON shall be divided into two Ridings, to be called respectively the East Riding and the West Riding.

23. The East Riding shall consist of the Townships of Bosanquet, Warwick, Plympton, Brooke, and Euphemia, the Town of Forest, and the Villages of Alvinston, Arkona, Thedford, Wyoming and Watford.

24. The West Riding shall consist of the Townships of Sombra, Dawn, Moore, Enniskillen, and Sarnia, the Towns of Sarnia, and Petrolia, and the Villages of Oil Springs, and Point Edward. R. S. O. 1887, c. 7, s. 14 (23, 24).

(12) THE COUNTY OF LANARK shall be divided into two Rid- Lanark.
ings, to be called respectively the North Riding and the South
Riding.

25. The North Riding shall consist of the Townships of Sherbrooke North, Dalhousie, Lanark, Ramsay, Lavant, Darling, and Pakenham, the Towns of Almonte and Carleton Place, and the Village of Lanark.

26. The South Riding shall consist of the Townships of Montague, Elmsley North, Burgess North, Sherbrooke South, Beckwith, Drummond, Bathurst, and the Towns of Perth and Smith's Falls. R. S. O. 1887, c. 7, s. 14 (25, 26).

(13) THE COUNTY OF MIDDLESEX shall be divided into three Middlesex.
Ridings, to be called respectively the North Riding, the East
Riding and the West Riding.

27. The North Riding shall consist of the Townships of McGillivray, Biddulph, Williams East, Williams West, Adelaide and Lobo, the Town of Parkhill, and the Villages of Ailsa Craig and Lucan.

28. The East Riding shall consist of the Townships of West Nissouri, North Dorchester, Westminster and London and the Village of London West.

29. The West Riding shall consist of the Townships of Delaware, Caradoc, Metcalf, Mosa and Ekfrid, the Town of Strathroy, and the Villages of Glencoe, Newbury and Wardsville. R. S. O. 1887, c. 7, s. 14 (27, 28, 29).

(14) THE COUNTY OF NORFOLK shall be divided into two Norfolk.
Ridings, to be called respectively the North Riding and the
South Riding.

30. The North Riding shall consist of the Townships of Middleton, Townsend and Windham, the Town of Simcoe, and the Villages of Waterford and Delhi.

31. The South Riding shall consist of the Townships of Charlotteville, Houghton, Walsingham South, Walsingham North and Woodhouse, with the Gore thereof, and the Villages of Port Dover and Port Rowan. R. S. O. 1887, c. 7, s. 14 (30, 31).

(15) THE COUNTY OF NORTHUMBERLAND shall be divided into Northumber-
two Ridings, to be called respectively the East Riding and the land.
West Riding.

32. The East Riding shall consist of the Townships of Cramahe, Brighton, Murray, Seymour and Percy and the Villages of Brighton, Campbellford, Colborne, and Hastings.

33. The West Riding shall consist of the Townships of Hamilton, Haldimand, Alnwick and the Town of Cobourg. R. S. O. 1887, c. 7, s. 14 (32, 33).

Ontario.

(16) The COUNTY OF ONTARIO shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

34. The North Riding shall consist of the Townships of Uxbridge, Brock, Scott, Thorah, Mara, and Rama, the Town of Uxbridge, and the Villages of Beaverton and Cannington.

35. The South Riding shall consist of the Townships of Whitby, East Whitby, Reach, Scugog, and Pickering, the Towns of Whitby and Oshawa, and the Village of Port Perry. R. S. O. 1887, c. 7, s. 14 (34, 35).

Oxford.

(17) THE COUNTY OF OXFORD shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

36. The North Riding shall consist of the Townships of East Nissouri, East Zorra, West Zorra, Blandford and Blenheim, the Town of Woodstock, and the Village of Embro.

37. The South Riding shall consist of the Townships of North Oxford, West Oxford, East Oxford, North Norwich, South Norwich and Dereham, the Towns of Ingersoll and Tilsonburg, and the Village of Norwich. R. S. O. 1887, c. 7, s. 14 (36, 37).

Perth.

(18) THE COUNTY OF PERTH shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

38. The North Riding shall consist of the Townships of Wallace, Elma, Ellice, Mornington and North Easthope, the City of Stratford, the Town of Listowel, and the Village of Milverton.

39. The South Riding shall consist of the Townships of Blanchard, Downie, South Easthope, Fullarton, Logan and Hibbert, and the Towns of Mitchell and St. Mary's. R. S. O. 1887, c. 7, s. 14 (38, 39).

Peterborough.

(19) THE COUNTY OF PETERBOROUGH shall be divided into two Ridings, to be called respectively the East Riding and the West Riding.

40. The East Riding shall consist of the Townships of Ottonabee, Douro, Asphodel, Dummer, Belmont, Methuen, Burleigh, Anstruther and Chandos, and the Villages of Ashburnham, Havelock and Norwood.

41. The West Riding shall consist of the Townships of South Monaghan, North Monaghan, Smith, Ennismore, Harvey, Galway and Cavendish, the Town of Peterborough, and the Village of Lakefield. R. S. O. 1887, c. 7, s. 14 (40, 41).

(20) THE COUNTY OF RENFREW shall be divided into two ^{Renfrew.} Ridings, to be called respectively the North Riding and the South Riding.

42. The North Riding shall consist of the Townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petawawa, Buchanan, South Alcona, North Alcona, Fraser, McKay, Wylie, Rolph, Head, Maria and Clara, and the Town of Pembroke.

43. The South Riding shall consist of the Townships of McNab, Bagot, Blithfield, Brougham, Horton, Adamston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, Hagarty, Richards, Sherwood, Burns and Jones, the Towns of Arnprior and Renfrew and the Village of Eganville. R. S. O. 1887, c. 7, s. 14 (42, 43); 52 V. c. 2, s. 3.

(21) That portion of the COUNTY OF SIMCOE which is not here- ^{Simcoe.} inafter assigned to the Electoral District of Cardwell, shall be divided into three Ridings, to be called respectively the East Riding, the Centre Riding, and the West Riding.

44. The East Riding shall consist of the Townships of Tay, Orillia, Matchedash, Medonte and Oro, the Towns of Orillia, Penetanguishene, and Midland.

45. The Centre Riding shall consist of the Townships of Tiny, Vespra, Flos, and Sunnidale, and the Town of Barrie, excepting the sixth ward thereof formerly included within the Village of Allandale.
After the 15th day of December, 1906, the whole of Barrie shall be included within the said Centre Riding.

46. The West Riding shall consist of the Townships of Tosorontio, Essa and Nottawasaga, the Towns of Collingwood, Stayner and Alliston, and the Village of Creemore. R. S. O. 1887, c. 7, s. 14 (44, 45, 46); 51 V. c. 61; Proclamation dated 21st April, 1896, and 60 V. c. 45, s. 27.

(22) The COUNTY OF VICTORIA shall be divided into two ^{Victoria.} Ridings, to be called respectively the West Riding and the East Riding.

47. The West Riding shall consist of the Townships of Ops, Mariposa, Eldon, Carden and Dalton, the Town of Lindsay, and the Village of Woodville.

48. The East Riding shall consist of the Townships of Emily, Fenelon, Bexley, Laxton, Digby, Longford, Somerville and Verulam, the Villages of Onemee, Fenelon Falls and Bobcaygeon, and all the municipalities included in the Provisional County of Haliburton. R. S. O. 1887, c. 7, s. 14 (47, 48).

Waterloo.

(23) THE COUNTY OF WATERLOO shall be divided into two Ridings, to be called respectively the North Riding and the South Riding.

49. The North Riding shall consist of the northerly portion, hereinafter described, of the Township of Waterloo, the Townships of Woolwich and Wellesley, the Towns of Berlin and Waterloo, and the Village of Elmira.

50. The South Riding shall consist of the southerly portion of the said Township of Waterloo, the Townships of North Dumfries and Wilmot, the Town of Galt, and the Villages of Ayr, Hespeler, New Hamburg and Preston.

The said northerly portion of the Township of Waterloo shall include and consist of that part of the said Township lying within the following limits, that is to say: Commencing at the south-west angle of lot number forty-six in the said Township; thence easterly along the southerly limits of the said lot, and of lots numbers forty-seven, forty-eight, fifty, fifty-one, and fifty-three, and the prolongation thereof, to the middle of the Grand River; thence along the middle of the said river, against the stream, to the prolongation of the limit between lots numbers one hundred and thirteen and one hundred and fourteen, and along the prolongation of the said limit, and along the said limit between the said lots numbers one hundred and thirteen and one hundred and fourteen, northerly and easterly, to the westerly limit of lot one hundred and seven; thence along the westerly limit of the said lot number one hundred and seven, northerly, to the northerly limit thereof; thence along the northerly limits of the said lot number one hundred and seven, and of lots numbers one hundred and six, eighty-four and ninety-six, easterly, to the easterly boundary of the said Township; thence along the easterly, northerly and westerly boundaries of the said Township, in a northerly, westerly and southerly direction, respectively, to the place of beginning; And the said southerly portion of the said Township of Waterloo shall include and consist of all the remaining part of the said Township. R. S. O. 1887, c. 7, s. 14 (49, 50).

Wellington.

(24) THE COUNTY OF WELLINGTON shall be divided into three Ridings, to be called respectively the South Riding, the East Riding and the West Riding.

51. The South Riding shall consist of the Townships of Guelph, Puslinch, Pilkington and Eramosa, and the City of Guelph.

52. The East Riding shall consist of the Townships of Arthur, Nichol, Erin, West Garafraxa and West Luther, the Town of Mount Forest, and the Villages of Erin, Fergus and Elora.

53. The West Riding shall consist of the Townships of Minto, Maryborough and Peel, the Towns of Harriston and Palmerston, and the Villages of Arthur, Clifford and Drayton. R. S. O. 1887, c. 7, s. 14 (51, 52, 33).

(25) THE COUNTY OF WENTWORTH shall be divided into two ^{Wentworth} Ridings, to be called respectively the North Riding and the South Riding.

54. The North Riding shall consist of the Townships of Beverly, Flamborough West, Flamborough East, the Town of Dundas, and the Village of Waterdown.

55. The South Riding shall consist of the Townships of Saltfleet, Binbrook, Glanford, Barton and Ancaster R. S. O. 1887, c. 7, s. 14 (54, 55).

(26) THE COUNTY OF YORK shall be divided into three ^{York} Ridings, to be called respectively the North Riding, the East Riding and the West Riding.

56. The North Riding shall consist of the Townships of King, Whitechurch, Georgina, East Gwillimbury and North Gwillimbury, the Towns of Aurora and Newmarket, the Villages of Holland Landing, and Sutton, and that part of the Village of Stouffville, which formerly formed part of the Township of Whitechurch.

57. The East Riding shall consist of the Townships of Markham and Scarborough, that portion of the Township of York lying east of Yonge Street, the Villages of Markham, East Toronto and Richmond Hill, and that part of the Village of Stouffville which formerly formed part of the Township of Markham.

58. The West Riding shall consist of the Townships of Etobicoke and Vaughan, and that portion of the Township of York lying west of Yonge Street, the Towns of Toronto Junction and North Toronto and the Villages of Weston and Woodbridge. R. S. O. 1887, c. 7, s. 14 (56, 57, 58).

15. Each of the following tracts of territory shall form an ^{Counties} Electoral District :—

59. THE COUNTY OF DUNDAS,

60. THE COUNTY OF GLENGARRY,

61. THE COUNTY OF HALTON,

62. THE COUNTY OF PRESCOTT,
63. THE COUNTY OF PRINCE EDWARD.
64. THE COUNTY OF STORMONT. R. S. O. 1887, c. 7, s. 15 (59-64).
- Addington. 65. THE COUNTY OF ADDINGTON,—to consist of the Townships of Camden, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Effingham, Abinger, Miller, North Canonto, South Canonto, Ashby and Denbigh, and the Village of Newburgh. R. S. O. 1887, c. 7, s. 15 (65).
- Cardwell. 66. THE COUNTY OF CARDWELL,—to consist of the Townships of Albion, Adjala, Tecumseth, Innisfil and West Gwillimbury, and the Villages of Beeton, Bolton, Bradford and Tottenham, and until the 15th day of December, 1906, the sixth ward of the Town of Barrie. R. S. O. 1887, c. 7, s. 15 (66). Proclamation dated 21st April, 1896, and 60 V. c. 45, s. 27.
- Carleton. 67. THE COUNTY OF CARLETON,—to consist of the Townships of Fitzroy, Goulburn, Gower North, Huntley, March, Marlborough, Nepean, except lots 36, 37 and 38, Concession "A," Ottawa front, and Tarbolton, and the Villages of Hintonburg, Ottawa East and Richmond. R. S. O. 1887, c. 7, s. 15 (67); 57 V. c. 2, s. 3.
- Dufferin. 68. THE COUNTY OF DUFFERIN,—to consist of the Townships of Mono, Melancthon, Amaranth, East Garafraxa, Mulmur, and East Luther, the Town of Orangeville and the Village of Shelburne. R. S. O. 1887, c. 7, s. 15 (68).
- Frontenac. 69. THE COUNTY OF FRONTENAC,—to consist of the Townships of Wolfe Island, Pittsburgh, Howe Island, Storrington, Loughboro, Portland, Kingston and Bedford, and the Village of Garden Island. R. S. O. 1887, c. 7, s. 15 (69); 57 V. c. 2, s. 4.
- Grenville. 70. THE COUNTY OF GRENVILLE,—to consist of the Townships of Augusta, Edwardsburgh, Oxford, Wolford and South Gower, the Town of Prescott, and the Villages of Kemptville, Merrickville and Cardinal. R. S. O. 1887, c. 7, s. 15 (70).
- Haldimand. 71. THE COUNTY OF HALDIMAND,—to consist of the Townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham, Walpole and Dunn, and the Villages of Caledonia, Cayuga and Hagarsville. R. S. O. 1887, c. 7, s. 15 (71).
- Leeds. 72. THE COUNTY OF LEEDS,—to consist of the Township called the Front of Leeds and Lansdowne, the Town-

- ship called the Rear of Leeds and Lansdowne, the Townships of South Crosby, North Crosby, Bastard, South Burgess, Kitley and Elmsley South, the Town of Gananoque and the Village of Newboro. R. S. O. 1887, c. 7, s. 15 (72).
73. THE COUNTY OF LENNOX,—to consist of the Townships Lennox. of Richmond, Adolphustown, North Fredericksburgh, South Fredericksburgh, Ernestown and Amherst Island, the Town of Napanee, and the Village of Bath. R. S. O. 1887, c. 7, s. 15 (73).
74. THE COUNTY OF LINCOLN,—to consist of the Town- Lincoln. ships of Clinton, Grantham, Grimsby, Grimsby North, Louth and Niagara, the City of St. Catharines, the Town of Niagara, and the Villages of Beamsville, Grimsby, Merriton, and Port Dalhousie. R. S. O. 1887, c. 7, s. 15 (74).
75. THE COUNTY OF MONCK,—to consist of the Townships Monck. of Canborough, Moulton, Sherbrooke, Caistor, Gainsborough, Pelham and Wainfleet, and the Village of Dunnville. R. S. O. 1887, c. 7, s. 15 (75).
76. THE COUNTY OF PEEL,—to consist of the Townships Peel. of Caledon, Chinguacousy, Toronto and the Gore of Toronto, the Town of Brampton, and the Village of Streetsville. R. S. O. 1887, c. 7, s. 15 (76).
77. THE COUNTY OF RUSSELL,—to consist of the Town- Russell. ships of Cambridge, Clarence, Cumberland, Gloucester, Osgoode and Russell, and the Villages of Casselman and Rockland. R. S. O. 1887, c. 7, s. 15 (77).
78. THE COUNTY OF WELLAND,—to consist of the Town- Welland. ships of Bertie, Crowland, Humberstone, Stamford, Thorold and Willoughby, the Towns of Niagara Falls, Thorold and Welland, and the Villages of Bridgeburg, Chippewa, Fort Erie, Niagara Falls and Port Colborne. R. S. O. 1887, c. 7, s. 15 (78).
79. THE ELECTORAL DISTRICT OF WEST ALGOMA,—to West Algoma. consist of the Territorial District of Rainy River and that part of the Territorial District of Thunder Bay which lies west of eighty-seven degrees west longitude. R. S. O. 1887, c. 7, s. 15 (79); 60 V. c. 19, s. 3 part.
80. THE ELECTORAL DISTRICT OF EAST ALGOMA,—to East Algoma. consist of the Territorial Districts of Algoma and Manitoulin and that part of the Territorial District of Thunder Bay, which lies east of eighty-seven degrees west longitude. R. S. O. 1887, c. 7, s. 15 (80); 60 V. c. 19, s. 3, part.

- Nipissing. 81. THE ELECTORAL DISTRICT OF NIPISSING—to consist of the Territorial District of Nipissing. 52 V. c. 2, ss. 1, 3.
- Muskoka. 82. THE ELECTORAL DISTRICT OF MUSKOKA,—to consist of the Territorial District of Muskoka. R. S. O. 1887, c. 7, s. 15 (81).
- Parry Sound. 83. THE ELECTORAL DISTRICT OF PARRY SOUND,—to consist of the Territorial District of Parry Sound. R. S. O. 1887, c. 7, s. 15 (82).
- Brockville. 84. THE ELECTORAL DISTRICT OF BROCKVILLE,—to consist of the Town of Brockville, and the Township of Elizabethtown, the Township called Front of Yonge, the Township called Rear of Yonge and Escott, and the Township called Front of Escott, and the Village of Athens. R. S. O. 1887, c. 7, s. 15 (83).
- Kingston. 85. THE ELECTORAL DISTRICT OF KINGSTON,—to consist of the City of Kingston, and the Village of Portsmouth. 57 V. c. 2, s. 4.
- London. 86. THE CITY OF LONDON. R. S. O. 1887, c. 7, s. 15 (87).
- Electoral district of Ottawa. 87. THE ELECTORAL DISTRICT OF OTTAWA—to consist of the City of Ottawa and the incorporated Villages of Ottawa East and Hintonburg and the unincorporated Village of Mechanicsville, consisting of those portions of lots thirty-six, thirty-seven and thirty-eight, concession A, Ottawa Front, in the Township of Nepean, not already included within the limits of the City of Ottawa. 57 V. c. 2, s. 3.
- Electoral divisions of Hamilton. **16.** THE CITY OF HAMILTON shall be divided into two electoral districts to be called respectively :—
 The Electoral District of West Hamilton, and,
 The Electoral District of East Hamilton,
- West Hamilton. 88. THE ELECTORAL DISTRICT OF WEST HAMILTON shall consist of that part of the City of Hamilton lying west of the centre line of Hughson street and the said centre line produced southerly to the southerly limit of the said city.
- East Hamilton. 89. THE ELECTORAL DISTRICT OF EAST HAMILTON shall consist of that part of the City of Hamilton lying east of the centre line of Hughson street and the said centre line produced southerly to the southerly limit of the said city. 57 V. c. 2, s. 2.

17. THE CITY OF TORONTO shall be divided into four electoral districts to be called respectively :—

Electoral divisions of Toronto.

- The Electoral District of East Toronto,
- The Electoral District of North Toronto,
- The Electoral District of South Toronto,
- The Electoral District of West Toronto,

90. THE ELECTORAL DISTRICT OF EAST TORONTO shall consist of the present Ward No. 1 and that part of the present Ward No. 2 lying south of the centre line of Carlton Street and east of the centre line of Sherbourne Street, and also that part of the City of Toronto known as "Toronto Island."

East Toronto.

91. THE ELECTORAL DISTRICT OF NORTH TORONTO shall consist of all that part of the City lying north of the centre line of Carlton Street and College Avenue, bounded on the east by the centre line of Sumach Street and the said line produced northerly to the north boundary of the City, and on the west by the centre line of Palmerston Avenue.

North Toronto.

92. THE ELECTORAL DISTRICT OF SOUTH TORONTO shall consist of those parts of the present Wards Nos. 2, 3, 4, and 5 lying south of the centre line of Carleton Street and College Avenue and bounded on the east by the centre line of Sherbourne Street, and on the west by the centre line of Palmerston Avenue and the centre line of Tecumseth Street and said centre line produced southerly to the Bay.

South Toronto.

93. THE ELECTORAL DISTRICT OF WEST TORONTO shall consist of that part of the City lying west of the centre lines of Palmerston Avenue and Tecumseth Street and the centre line of Tecumseth Street produced southerly to the bay, being that portion of the city not included in the other three electoral divisions.

West Toronto.

57 V. c. 2, s. 1.

18. Each of the above mentioned ninety-three Electoral Districts shall be represented in the Legislative Assembly by one member, except the Electoral District of Ottawa, which shall return two members. R. S. O. 1887, c. 7, s. 15, part; 57 V. c. 2, s. 3.

One member each except Ottawa.

CHAPTER 7.

An Act respecting Voters' Lists.

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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY.

Short title.

1.—(1) This Act may be cited as "*The Ontario Voters' Lists Act*," and the expression the "Voters' Lists Act," wherever the

same occurs in either *The Manhood Suffrage Registration Act*, *The Ontario Election Act*, *The Assessment Act*, or *The Municipal Act*, shall mean this Act. 52 V. c. 3, s. 1 (1). Rev. Stats. c. c. 8, 9, 224, and 223.

INTERPRETATION.

2.—(1) In this Act, unless a contrary intention appears: Interpretation.

1. "Election," "to vote," and "corrupt practices," shall respectively have the meaning given thereto by section 2 of *The Ontario Election Act*; "Election;"
"To vote;"
"Corrupt practices,"
Rev. Stat. c. 9.

2. "Farmer's Son" shall have the meaning given thereto by *The Municipal Act*; "Farmer's son"

3. "Municipal election" shall mean an election for a member to a municipal council, within the meaning of *The Municipal Act*; "Municipal election."

4. "Voter" shall mean a person entitled to be a voter, or to be named in the voters' list as qualified to be a voter either at an election of a member of the Legislative Assembly within the meaning of *The Ontario Election Act*, or at any municipal election, as the case may be; "Voter,"
Rev. Stat. c. 9.

5. "Scrutiny" shall mean any scrutiny of the votes polled at an election within the meaning of section 76 and the next succeeding nine sections of *The Ontario Controverted Elections Act*; "Scrutiny."
Rev. Stat. c. 11.

6. "County Judge" shall mean the Judge of the County Court, and "Clerk of the Peace" shall mean the Clerk of the Peace for the County or Union of Counties within which lies the municipality for or in respect of which the Voters' List is made; and "Clerk of the Peace;"
"County Judge."

7. "Roll," and "assessment roll," shall respectively mean an assessment roll within the meaning of *The Assessment Act*. 52 V. c. 3, s. 2. "Roll;" "Assessment roll."
Rev. Stat. c. 225.

(2) Where there are more County Judges than one in the electoral district, any one of them shall be competent for the respective duties assigned by this Act to a Judge; or they may agree from time to time, or from day to day, to divide the duties between them as they may deem convenient. 56 V. c. 3, s. 22. Where there are more county judges than one.

(3) A Deputy-Judge shall have no power to deal with any matter connected with any of the lists mentioned in this Act, unless so authorized by the Lieutenant-Governor in Council. 56 V. c. 3, s. 27. Deputy-judge not to deal with lists without special authority.

(4) The District Judges in the Districts of Algoma and Thunder Bay and the Stipendiary Magistrate of the District Jurisdiction of District Judges and Stipendiary Magistrates.

in each of the Districts of Muskoka, Parry Sound, Nipissing, Manitoulin and Rainy River, shall for the purposes of this Act have the jurisdiction, duties and powers which County Court Judges have in counties. 52 V. c. 3, s. 18.

RULES AND FORMS.

Board of
County
Judges may
make rules.

3. The Board of County Judges may, if requested so to do by the Lieutenant-Governor, frame Rules and Forms of procedure for the purpose of better carrying this Act into effect, and such Rules and Forms shall, after being approved of by the Lieutenant-Governor in Council, have the same effect and force as if they formed part of this Act. 52 V. c. 3, s. 43.

Use of forms.

4. In carrying into effect the provisions of this Act, the Forms set forth in the Schedule hereto may be used, and the same or Forms to the like effect shall be deemed sufficient for the purposes mentioned in the said Schedule. 52 V. c. 3, s. 44.

APPLICATION OF PARTS I., II., AND III.

Application of
Parts I., II.
and III. of
Act.

5.—(1) The provisions contained in Part I. shall apply to townships, incorporated villages and towns except the Town of Niagara Falls and such towns as are county towns; and save as varied by Part II. of this Act and by *The Manhood Suffrage Registration Act*, the said provisions shall also apply to and be in force in every city and county town and in the Town of Niagara Falls. 52 V. c. 3, s. 3; 58 V. c. 3, s. 2; 60 V. c. 14, s. 47.

Rev. Stat. c. 8.

(2) The provisions contained in Part II. shall apply and be in force in every city having a population of over 100,000, in which a by-law shall have been passed for taking the assessment at any time prior to the 30th day of September, and fixing prior and separate dates for the return and final revision of the assessment rolls for each ward or sub-division of a ward as determined by the said by-law. 59 V. c. 2, s. 1.

(3) The provisions contained in Part III. shall apply to every portion of the Province not comprised in an organized municipality. 55 V. c. 2, s. 1.

PART I.

ALPHABETICAL LISTS OF VOTERS AND COPIES.

Clerk to make
lists of voters
in three Parts.

6.—(1) The Clerk of each Municipality shall, immediately after the final revision and correction of the assessment roll in every year, make a correct alphabetical list in three parts (Form 1) of all persons being of the full age of twenty-one years and subjects of Her Majesty by birth or naturalization, and appearing by the assessment roll to be entitled to be voters in the municipality, prefixing to the name of each person his number upon the roll.

(2) The first of the three parts shall contain the names, in alphabetical order, of all male persons of full age and subjects as aforesaid, appearing by the assessment roll to be entitled to vote in the municipality at both municipal elections and elections for members of the Legislative Assembly. First Part.

(3) The second part shall contain the names, in alphabetical order, of all other male persons of full age and subjects as aforesaid, and of all widows and unmarried women of full age and subjects as aforesaid, and appearing on the assessment roll to be entitled to vote in the municipality at municipal elections only, and not at elections for members of the Legislative Assembly. Second Part.

(4) The third part shall contain the names, in alphabetical order, of all other male persons of full age and subjects as aforesaid, appearing by the assessment roll to be entitled to vote in the municipality at elections for members of the Legislative Assembly only, and not at municipal elections. Third Part.

(5) The name of the same person shall not be entered more than once in any such part. Name to be entered once only.

(6) Where a municipality is divided into polling subdivisions the list (to be made in three parts as aforesaid) shall be made for each of the subdivisions. Lists for polling subdivisions.

(7) In the case of a person qualified to vote under the provisions of *The Ontario Election Act*, the Clerk shall, opposite the name of such person, in the proper column of the Voters' List, state that fact either by inserting in such column the words "Manhood Franchise," or the letters "M.F." Where qualification under R. S. O. c. 9.

(8) Where the qualification of a person to be a voter at a municipal election is in respect of real property, the Clerk shall, opposite the name of the person, insert, in the proper column of the Voters' List, the number of any lot or other proper description of any parcel of real property in respect of which each person is so qualified; adding thereto, where the person is so qualified in respect of more than one such lot or parcel, the words "and other premises." Where qualification in respect of real property.

(9) In the case of a person being a farmer's son within the meaning of *The Municipal Act*, the Clerk shall also, opposite the name of such person, in the proper column of the Voters' List, state that fact either by inserting in such column the words "Farmer's Son," or the letters "F.S." Where qualification of a farmers' son. Rev. Stat. c. 223. 52 V. c. 3, s. 3 (1-9).

(10) In townships, towns and villages the clerk shall also opposite the name of each person state such person's occupation by inserting the same in a column for that purpose. Occupation of voter to be entered in list. 60 V. c. 14, s. 36.

(11) Where a ward of any municipality is divided into polling subdivisions, and it appears by the assessment roll Entry where voter assessed

in several divisions of same ward. that a person is assessed in each of two or more polling subdivisions in the ward for property sufficient to entitle him to be a voter at a municipal election, the Clerk shall enter his name in the list of voters in one subdivision only, and shall, as hereinbefore required, insert opposite his name the additional words "and other premises;" and where within the knowledge of the Clerk, a person resides in one of the polling subdivisions, his name shall be entered as aforesaid in the list of voters for that polling subdivision.

Provision where property partly in one subdivision and partly in another.

(12) Where it appears by the assessment roll that a person is assessed for property within the municipality sufficient to entitle him to be a voter at a municipal election, but that such property lies partly within the limits of one subdivision and partly within another or others, the clerk shall enter his name on the list of voters in only one of the subdivisions in which the property is situate, with the following words added: "Partly qualified in subdivision No. ."

Income qualification.

(13) If the qualification to be a voter at a municipal election is in respect of taxable income, the clerk shall, in the proper column of the Voters' List, state that fact, and the place at which the voter resides in the municipality. 52 V. c. 3, s. 3 (10-12).

Entry in list of persons assessed as freeholder or tenant.

(14) Where the word Freeholder or the letter F, or the word Tenant or the letter T appears in the assessment roll opposite the name of a person entitled to be entered in the Voters' List, such word or letter shall be placed by the Clerk of the Municipality in the Voters' List opposite the name of such person. 60 V. c. 15, Sched. A (36).

Entry in list of persons qualified under Manhood Franchise or as farmer's sons.

(15) Where upon the assessment roll, opposite the name of any person entered in such roll, there are inserted the letters "M.F." to indicate that such person is qualified to be a voter under *The Ontario Election Act*, or the letters "F.S." to indicate that such person is a farmer's son, within the meaning of *The Municipal Act*, the like letters inserted opposite the name of such person in the proper column of the Voters' List will be taken to indicate that he is entitled to be a voter and to be entered in the said list, under *The Ontario Election Act*, or *The Municipal Act*, as the case may be.

When assessment roll to be regarded as finally revised.

(16) An assessment roll shall be understood to be finally revised and corrected when it has been so revised and corrected by the Court of Revision for the municipality, or by the Judge of the County Court in case of an appeal as provided in *The Assessment Act*, or when the time during which the appeal may be made has elapsed, and not before. 52 V. c. 3, s. 3 (14, 15).

Rev. Stat. c. 224.

P. O. address of voter to be entered on list, Rev. Stat., c. 61.

7. The clerk of every township municipality, in making out the list shall, besides complying with section 23 of *The Jurors' Act*, insert in the list (Form 1) a schedule containing

the name, numbered consecutively, of every post office which by the assessment roll appears to be, or within the knowledge or belief of the Clerk is, the proper post office address of any person entered in the list, and in making out the list shall according to the form and in the proper column therefor, insert opposite the name of every person entered in the list the consecutive number which according to the schedule is that of the proper post office address of the person, so far as the address appears by the assessment roll, or is within the knowledge or belief of the Clerk; but no appeal or complaint on the ground of any error, mistake or omission in or from the list in respect of any matter or thing by this section directed to be inserted therein, shall be made or allowed by or under this Act. 52 V. c. 3, s. 4.

8. Immediately after the Clerk has made the alphabetical list, and within forty days in cities, and in other municipalities within thirty days, after the final revision and correction of the assessment roll, the Clerk shall cause at least two hundred copies of the list to be printed (in pamphlet form where practicable), and forthwith shall cause one of the printed copies to be posted up, and to be kept posted up in some conspicuous place in his own office, and deliver or transmit by post, by registered letter, or by parcel post, registered, three copies to each Judge of the County Court of the County to which for judicial purposes the municipality belongs; and two copies to each of the following persons, that is to say:—

Copies of list to be printed and distributed.

(a) Every member of the Municipal Council of the Municipality except the Reeve;

(b) The Treasurer thereof;

(c) The Sheriff of the County;

(d) The Clerk of the Peace;

(e) Every Postmaster in the Municipality;

(f) Every Head Master or Mistress of a Public or Separate School in the Municipality. 52 V. c. 3, s. 5.

(g) The Clerk of the County in which the municipality is situate. 60 V. c. 14, s. 37.

9. The Clerk of the Municipality shall forthwith also deliver or transmit by post, by registered letter, or by parcel post, registered, ten copies of the list to each of the following persons, that is to say:—

Clerk to transmit copies to certain persons.

(a) The Member of the House of Commons for the Electoral District in which the Municipality or any part thereof lies;

(b) The Member of the Legislative Assembly for the Electoral District in which the Municipality or any part thereof lies;

(e) Every candidate for whom votes were given at the then last election of a member for the House of Commons and for the Legislative Assembly respectively; and

(d) The Reeve of the Municipality. 52 V., c. 3, s. 6.

Clerk to certify as to certain matters on each copy of list.

10. Upon each of the copies so sent shall be a printed or written certificate (Form 2) over the name of the Clerk, stating that the list is a correct list of all persons appearing by the last revised assessment roll of the municipality to be entitled to vote at elections for Members of the Legislative Assembly, and at municipal elections in the municipality; and further, calling upon all electors to examine the list, and, if omissions or other errors are perceived therein, to take immediate proceedings to have the errors corrected according to law. 52 V., c. 3, s. 7.

Copies to be posted up by Sheriffs, Clerks of the Peace, teachers and postmasters.

11. The Sheriff shall immediately upon the receipt of his copies cause one of them to be posted up in a conspicuous place in the Court-House; the Clerk of the Peace, upon receipt of his copies, shall cause one of them to be posted up in a conspicuous place in his office; every Public or Separate School Head Master or Mistress shall in like manner post up one of his or her copies on the door of the school-house; and every Postmaster shall post up one of his copies in his post-office. 52 V., c. 3, s. 8.

Clerk to publish notice of transmission and posting up of list.

12. The Clerk shall also forthwith cause to be inserted in some newspaper published in the municipality, or in case no newspaper is published in the municipality, then in some newspaper published either in the nearest municipality in which one is published, or in the County Town, a notice (Form 3), signed by him, which shall state that he has delivered or transmitted the copies of the list as directed by this Act, and which shall also state the date of the first posting up of the list in his office. One insertion of the notice shall be sufficient. 52 V., c. 3, s. 9.

REVISION OF LISTS.

Revision of list by County Judge.

13.—(1) The list shall be subject to revision by the County Judge, at the instance of any voter or person entitled to be a voter in the municipality for which the list is made, or in the electoral district in which the municipality is situate, on the ground of the names of voters being omitted from the list, or being wrongly stated therein, or of names of persons being inserted in the list who are not entitled to be voters.

Assessment roll not conclusive.

(2) Upon such revision the assessment roll shall not be conclusive evidence in regard to any particular, whether the matter on which the right to be a voter depends had or had not been brought before the Court of Revision, or had or had not been determined by that Court.

(3) Upon such revision no person shall be disentitled to have his name entered in the list, either by reason of his having omitted to make, sign or deliver any statement or affidavit required by the provisions of *The Assessment Act*, to be so made, Rev. Stat. signed or delivered by him, or by reason of his name not having been entered on the assessment roll. c. 224.

(4) The decision of the Judge under this Act, in regard to the right of any person to vote, or as to the right to insert in or strike from the list the name of any person as a voter, shall be final so far as regards such person. 52 V. c. 3, s. 10 (1). Judges decision final.

14.—(1) A complaint or an appeal (Form 4) may be made on the ground of any person whose name is entered in the list being one of those who are disqualified or incompetent to vote under *The Ontario Election Act*. Appeal in case of persons disqualified under Rev. Stat. c. 9.

(2) If, before the final revision and correction of the assessment roll, a person named in the list of voters as entitled to be a voter at a municipal election, has died or has parted with the property in respect of which his name was entered in the Voters' List, the person who, at the time of the final revision and correction, was in possession of the property shall if otherwise qualified to be a voter at a municipal election, be entitled to apply to the Judge (Form 5) to be entered on the list in respect of the said property instead of the person first named in this section. Applications by persons who have acquired property since assessment.

(3) The proceedings to be taken in such case shall be the same as in cases of appeals under this Act. Procedure.

(4) Any person who is rated, or entered, or entitled or liable to be rated, or entered in the assessment roll, either as a farmer's son, or for real property or income of the amount requisite to entitle him to vote at municipal elections, and who will be of the age of twenty-one years within sixty days from the final revision and correction of the assessment roll, shall have the right to apply to the Judge to have his name entered in the Voters' List, or upon the assessment roll and the Voters' List, as entitled to vote at municipal elections. 52 V. c. 3, s. 10 (2-4). Persons who will be of age within 60 days from revision.

(5) Any person entitled to be assessed or entered or named in the assessment roll of a municipality, shall, in all respects and for all purposes, have the right to complain and apply to the Judge on the revision of the Voters' Lists, in order to have his name entered and inserted in the Voters' Lists, as entitled to be a voter, but except as provided in subsection 4, the name of no person who is then disqualified or otherwise incompetent to vote shall be entered in the Voters' List to which such incompetency or disqualification applies. 52 V. c. 3, s. 10 (5); 60 V. c. 15, Sched. A (37). Right to apply.

(6) Any person entitled to be assessed or to have his name entered in the assessment roll of a municipality, shall be so assessed and shall have his name so entered without any Persons entitled to be entered on roll without request.

request in that behalf; and a person entitled to be entered in the assessment roll or in the Voters' List based thereon, or to vote or to be a voter in the electoral district in which the municipality is situate, shall, in order to have the name of any other person entered and inserted in the assessment roll, or list of voters, as the case may be, have for all purposes the same right to apply, complain or appeal to a Court or a Judge in that behalf, as such other person would or can have personally.

Entry of persons becoming qualified after completion of roll.

(7) Any person who, since the day upon which, by statute or by by-law, the assessment roll is returnable to the Clerk of the Municipality, and before the time for appealing against the Voters' List or of giving notice of application to the Judge to have the names of persons entered in the Voters' List under this Act shall have expired, has become possessed of the qualifications entitling him to vote, shall be entitled to give, or any person whose name is on the list, or who has the qualification entitling him to have his name entered thereupon, may give the requisite notice or make application to the Judge to have the name of such first-mentioned person entered in the Voters' List as entitled to be a voter. 52 V., c. 3, s. 10 (6, 7).

Powers of County Judge.

15. The County Judge, at any Court held by him for the revision of Voters' Lists under this Act, may, without a previous notice of appeal or complaint in that behalf, on an application made by or on behalf of the person named in the lists, correct any mistake which shall be proved to him to have been made in compiling any Voters' List in respect of the name, or place of abode, or nature of the qualification, or the local or other description of the property, of a person entered in the list, and against or with respect to whose right to be entered in the list an appeal or complaint is either pending before or being heard by the Judge: but in any case, evidence may be produced and given before the Judge that the person has no qualification or no sufficient qualification in law to entitle him to be a voter, and if the Judge, on the evidence, is of opinion that the person has not the qualification, he shall expunge and strike the name of such person from the list. 52 V., c. 3, s. 11.

Judge to correct list as evidence may warrant.

16. If on a complaint or appeal to strike out of the list the name of a person entered therein as a voter, the Judge, from the evidence produced and given before him, is of opinion that the person is entitled to be entered on the list in any character or because of property or qualification other than that in which he is so already entered in the list, the Judge shall not strike the name of the person from the list, but shall make such corrections in the list as the evidence in his opinion warrants with respect to the right, and qualification of the person to be a voter and the character in which he is entitled. 52 V. c. 3, s. 12.

17.—(1) A voter or person entitled to be a voter making a complaint of any error or omission in the list shall, within thirty days after the Clerk of the Municipality has posted up the list in his office, give to the Clerk or leave for him at his residence or place of business, notice in writing (Form 6) of his complaint and intention to apply to the Judge in respect thereof.

Proceedings on complaint of errors in list.

(2) If the office of Clerk is vacant by reason of death, resignation or from any other cause, the notice may be given in like manner to the head of the Council of the Municipality ;

Vacancy in office of Clerk.

(3) The proceedings thereafter by the Clerk, Judge, and the parties respectively, and the respective powers and duties of the Judge, Clerk and other persons, shall be the same, or as nearly as may be the same, as in the case of an appeal from the Court of Revision ; but no deposit shall be required to be made before the complaint is heard or disposed of. (See Forms 7-12).

Procedure as in appeal from Court of Revision.

(4) If the notice is given to or left for the head of the council, he shall perform or cause to be performed such necessary acts as should be performed by the Clerk if there were one.

Duty of head of council when notified.

(5) No Judge shall proceed with the holding of any Court for hearing complaints as aforesaid, unless and until notice (Form 10) of the time and place of holding the Court shall have been published by the Clerk at least ten days before the sittings of the Court, in some newspaper published in the municipality, or, if there be no such paper, then in some newspaper published in the nearest municipality in which one is published, or in the county town. 52 V. c. 3, s. 13.

Notice of holding Court for complaints.

18.—(1) Any person may obtain from the County Court a subpoena (Form 13), or from the County Judge an order, requiring the attendance at the Court for hearing complaints as aforesaid, at the time mentioned in the subpoena or order, of a witness residing or served with the subpoena or order, in any part of this Province, and requiring the witness to bring with him and produce at the Court any papers or documents mentioned in the subpoena or order : and every witness served with the subpoena or order shall obey the same, provided the allowance for his expenses, according to the scale allowed in Division Courts, is tendered to him at the time of service. 52 V. c. 3, s. 14 (1).

Compelling attendance of witnesses.

(2) Any person complaining, or any person in respect of the insertion or omission of whose name a complaint is made, shall, if resident within the municipality, the list of which is the subject of complaint, or within the municipality in which the Court is held, upon being served with a subpoena or order therein, obey the same without being tendered or paid any allowance for his expenses ; and the subpoena or order shall be deemed to have been sufficiently served upon any such person under the provisions of this section :

Compelling attendance of persons whose right is in question.

- (a) If the subpoena or order is served upon him personally ; or
- (b) Where he has a known residence or place of business within the municipality, if a copy of the subpoena or order is left for him with some grown up person, at such residence or place of business ; or
- (c) Where he has no known residence or place of business within the municipality, if a copy of the subpoena or order is, at least six days before the sitting of the court, mailed to him through the post office, by registered letter, addressed to him at the post office address contained in any written affirmation made by him under *The Assessment Act*, and where no written affirmation has been made by him under *The Assessment Act*, then by mailing the said subpoena or order, by registered letter, addressed to him at his last known post office address, and also by separate registered letter addressed to the post office nearest to the polling sub-division in which he is entered, at least six days before the sitting of the court ; or
- (d) Where such person is a farmer's son, if a copy of the order or subpoena is left for him with some grown person at the residence of the farmer whose son he is. 52 V. c. 3, s. 14 (2) ; 56 V. c. 2, s. 1.

Rev. Stat.
c. 224.

Penalty for
non-attend-
ance.

(3) If a person, whose right to be a voter is the subject of enquiry, does not attend in obedience to the subpoena or order, the Judge, if he thinks fit, in the absence of satisfactory evidence as to the ground of the non-attendance, or as to the right of the person to be a voter, may, on the ground of his non-attendance, strike his name off the list of voters, or refuse to place his name on the list of voters, as the case may require, or impose a reasonable fine on him according to his discretion, or he may do both.

Names in
subpoena.

(4) Any number of names may be inserted in one subpoena or Judge's order, in any case of complaint. 52 V. c. 2, s. 14 (3, 4).

Time within
which list to
be revised.

19. It shall be the duty of the County Judge so to arrange and proceed, and so to fix the sittings of the Court for the hearing of complaints against or in respect of any Voters' List, that the complaints shall be heard and determined, and the List finally revised, corrected and certified under this Act, within two months of the last day for making complaints. 52 V. c. 3, s. 15.

List confirm-
ed if no com-
plaint within
30 days after
list posted up
by clerk.

20. In case no complaint respecting the list is received by the Clerk of the Municipality, within thirty days after he has posted up the list in his office, the Clerk shall forth-

with apply (Form 14), either in person or by letter, to the Judge to certify (Form 15) three copies of the list as being the revised list of voters for the municipality; and the Judge shall retain one of the certified copies of the list, and deliver or transmit by post, registered, one of the certified copies to the Clerk of the Peace for the county or union of counties within which the municipality lies, and one of the certified copies to the Clerk of the Municipality, to be kept by him among the records of his office. 52 V. c. 3, s. 16.

21.—(1) In case complaints are made as aforesaid, immediately after the list has been finally revised and corrected by the Judge, the Judge shall make or cause to be made, and shall sign, a statement (Form 16) in triplicate, setting forth the changes, if any, which he has made in the list; and shall certify in triplicate (Form 17) corrected copies of the list; and the statement in triplicate, and the corrected copies of the list shall, if the Judge so order, and under his directions and supervision, be prepared by the Clerk of the Municipality, and for that purpose the Judge shall forthwith, after the list has been so finally revised and corrected, transmit or deliver to the Clerk all necessary papers and directions, which papers and directions together with the statement in triplicate and the corrected copies shall within, at latest, the week next after the list has been so finally revised and corrected as aforesaid, be re-transmitted and delivered by the Clerk to the Judge, who thereupon shall immediately sign the statement and certify the corrected copies as aforesaid; Judgeto make statement of alterations and certify copies of list after final revision.

(2) Should the statement and corrected copies not be re-transmitted and delivered by the Clerk to the Judge within the time above mentioned, the Judge shall immediately thereafter make and sign the statement and certify the corrected copies of the list.

(3) The Judge shall retain one of the certified copies and one statement, and shall deliver or transmit by post, registered, one of the certified copies and one statement to the Clerk of the Peace for the county or union of counties within which the municipality lies, and one of the certified copies and one statement to the Clerk of the Municipality, to be kept by him among the records of his office. 52 V., c. 3, s. 17. Disposal of certified copies and of statements.

22. After the Voters' List has been finally revised, corrected and certified by the Judge, and before the nomination day at any election, but not on or after the nomination day, the Judge shall have power to strike from the list the names of any persons who have died since the list was revised, corrected and certified; and for the purpose of striking off the same, the certificate of the Registrar-General or of the division registrar as to deaths shall be sufficient *prima facie* evidence of a death, with any evidence of identity which may be reasonably necessary in case the identity of the person said to be Removal of names of voters dying before nomination day.

dead with the person of the same name on the Voters' List, is disputed or open to reasonable doubt. 56 V., c. 3, ss. 24, 26.

Procedure
under section
22.

23.—(1) In case of an application to a County Court Judge for the purpose of the preceding section, and its appearing to the Judge that there is ground for some alteration in the list for the reason mentioned in the preceding section, he shall appoint a time and place for the purpose of considering and making such alterations in the Voters' List as may at the said time and place be shewn to him to be proper, whether the same had or had not been previously brought to his notice by the said or any application.

(2) For this purpose the proceedings shall be the same, or as nearly as may be the same, as proceedings taken for the revision of Voters' Lists, and the Judge and the officers named in this Act shall have the same jurisdiction, and shall act in respect of the proceedings under this section (as nearly as may be), as in the case of proceedings to revise the Voters' List under this Act. 56 V., c. 3, ss. 25, 26.

Certified list
conclusive
evidence.

24. Every Voters' List which under this Act is certified by the County Judge, shall, upon a scrutiny, be final and conclusive evidence of the right of all persons named therein to vote at any election at which such list was or could have been legally used; except

Exceptions.

1. Persons guilty of corrupt practices at or in respect of the election in question on such scrutiny, or since the list was certified by the County Judge as aforesaid;

Rev. Stat. c. 9.

2. Persons who, at any time subsequently to the list being certified by the County Judge are or have been non-resident either within the municipality to which the list relates, or within the electoral district for which the election is held, and who by reason thereof are, under the provisions of *The Ontario Election Act*, incompetent and disentitled to vote;

3. Persons who, under sections 4 to 7 of *The Ontario Election Act* are disqualified and incompetent to vote. 52 V. c. 3, s. 19.

Municipality
to provide a
court room.

25.—(1) It shall be the duty of the municipality within which a Court is held, to provide some suitable and convenient place, properly furnished, heated and lighted for the holding of the Court, and in case the same is not done the Judge may hold the Court at such other place in the County as he may deem proper; and if the Court is held elsewhere than in the County Court House, the proprietor of the building in which it is held may recover from the municipality which should have made such provision the sum of \$5 for each and every day during which the building is used for the purposes of the Court;

(2) Every Court held in the county town shall be held in the County Court House, or in such other place in the county town as the Judge may deem proper. Courts in county towns. 52 V. c. 3, s. 20.

26. In all proceedings before the Judge under this Act, the Judge shall have, with reference to the matters herein contained, all the powers which belong to or might be exercised by him in the County Court. Powers of Judge. 52 V. c. 3, s. 21.

27. The Clerk of every Municipality shall be subject to the summary jurisdiction and control of the County Judge in respect to the performance of his duty under this Act, and in respect to every act required to be performed by the Clerk touching the Voters' List, in the same manner as officers of the County Court are to the Court. Clerk to be subject to summary jurisdiction of Judge. 52 V. c. 3, s. 22.

28. Where it is provided by a by-law or contract under which the Clerk of a Municipality is appointed or employed that the sum to be paid him by way of salary as Clerk is intended expressly or impliedly to include payment for all duties which, as Clerk and under this Act are to be performed by him, either in the preparation, publication and distribution of the list of voters under this Act, or before, upon or after the lodging with him of any complaint or appeal under this Act, or for any other act or work of whatever nature or kind required by this Act to be done by him; then the Clerk shall not, in respect of such duties or work, be entitled to or be allowed by the County Judge, nor shall there be taxed to him, any fee, payment, cost or charge whatsoever; but when it is not intended by the by-law or contract to provide for the performance of the above-mentioned duties and work, then the clerk shall be entitled in respect thereof to the following but to no other fee or compensation, that is to say:—

1. Two cents for the name of every person entered in the list of complaints and in respect to whom appeal was made.

2. Two cents for every name entered in any necessary copy of the said list of complaints.

3. Eight cents for every necessary notice to any party complaining or complained against.

4. Three dollars for every day's attendance on the sittings of the Court for the revision of the Voters' List.

5. And to the actual and reasonable disbursements (if any) necessarily incurred by him in serving the notices of complaint or appeal, when served by himself. 52 V. c. 3, s. 23.

29.—(1) The Judge shall have power to appoint some proper person to attend at the sitting of the Court as a constable and bailiff; and the duties and powers of such person thereat shall be as nearly as may be the same as those of the bailiff of a Division Court at a sitting of a Division Court and in reference thereto. Appointment of constable.

Constable's
fees.

(2) The person acting as constable shall be entitled to the following but no other fees or compensation ; that is to say :—

1. The sum of one dollar and fifty cents for every day's attendance.

2. For the service of any process or notice, including the service, the receipt and the return thereof, and all other services connected therewith when allowed by the Judge, a sum not exceeding ten cents per mile one way for each mile actually and necessarily travelled to effect such service. 52 V. c. 3, s. 24.

Payment of
fees.

30. The compensation fixed by the preceding two sections shall be paid to the Clerk and constable respectively by the municipality the list for which is the subject of investigation ; and the amount of the compensation as certified by the Judge shall be so paid by the Treasurer of the Municipality upon the production and deposit with him of the Judge's certificate. 52 V. c. 3, s. 25.

Report by
Judge as to
frauds, etc.

31. If the Judge who holds a Court believes or has good reason to believe that any person has contravened sections 45 or 48 of this Act, or that frauds in respect to the assessment or the Voters' Lists have prevailed extensively in the municipality, it shall be his duty to report the same to the Provincial Secretary, with such particulars as to names and facts as he may think proper. 52 V. c. 3, s. 26.

Amendments.

32. The Judge shall have power to amend any notice or other proceeding upon such terms as he may think proper. 52 V. c. 3, s. 27.

Substitution
of new appel-
lant.

33. If an appellant or complainant entitled to appeal dies or abandons his appeal or complaint, or having been on the alphabetical list made and posted by the Clerk as aforesaid, is afterwards found not to be entitled to be an appellant, the Judge may, if he thinks proper, allow any other person who might have been an appellant or complainant to intervene and prosecute the appeal or complaint, upon such terms as the Judge may think just. 52 V. c. 3, s. 28.

Costs occa-
sioned by
errors may be
ordered to be
paid by per-
sons respon-
sible therefor.

34.—(1) In case of errors being found in the Voters' List on the revision thereof, whether the errors are in the omission of names, the inaccurate entry of names, or the entry of names of persons not entitled to vote, if it appears to the Judge that the assessor was blamable for any of the errors, the Judge shall order (Form 18) the assessor, either alone or jointly with any other person, to pay all costs occasioned by the same ; and in case of errors for which the Clerk was to blame, the Clerk, either alone or jointly with any other person, shall be charged with the costs ;

(2) In case of errors of the Court of Revision, the municipality shall, either alone or jointly with any person, pay the costs, subject to any claim which the municipality may justly have against the guilty parties; or

(3) The Judge may order the assessor, clerk or municipality in such case, to pay the costs, if a party fails to recover the same from any other party named and ordered to pay the same;

(4) In all cases not herein provided for, the costs shall be in the discretion of the Judge. 52 V. c. 3, s. 29 (1).

35. No costs shall be allowed on any proceeding under this Act, other or higher than would be allowed for the like services in the Division Court under the lowest scale of costs in actions therein. 52 V. c. 3, s. 29 (2).

Division Court costs only to be allowed.

36. The only costs to which an appellant shall be liable shall be the witness fees, unless in a case of bad faith on his part, and if, in the opinion of the Judge, a complaint or appeal is merely frivolous and vexatious, and has not been made in good faith, nor with any reasonable or probable cause, the Judge may, in his discretion, order the appellant or complainant to pay costs not exceeding double the amount for which he would otherwise be liable. 52 V. c. 3, s. 29 (3).

Liability of appellant for costs.

37. The payment of costs ordered to be paid by the Judge may be enforced by an execution (Form 19) against goods and chattels, to be issued from any County Court upon filing therein the order of the Judge, and an affidavit showing the amount at which the costs have been taxed and the non-payment thereof. 52 V. c. 3, s. 30.

Enforcing payment of costs.

REFERENCE TO COURT OF APPEAL.

38.—(1) In order to facilitate uniformity of decision without the delay or expense of appeals,

(a) A County Judge may state a case on any general question arising or likely to arise, or expected to arise under this Act, and may transmit the same to the Lieutenant-Governor in Council, who thereupon shall immediately refer the case to the Court of Appeal or a Judge thereof for the opinion of the Court or Judge thereupon; or

Stating case for opinion of Court of Appeal.

(b) The Lieutenant-Governor in Council may refer a case on any such general question to the Court of Appeal or a Judge thereof, for a like opinion.

(2) Immediately upon the receipt of such case it shall be the duty of the Court or Judge to appoint a time and place for hearing arguments upon the points and matter involved in the case, of which time and place written notice shall be given by the Registrar of the Court posting up a

copy of the notice in the Central Office at Osgoode Hall, in Toronto, at least ten clear days before the time appointed as aforesaid.

Hearing.

(3) At the time and place fixed therefor as aforesaid, the Court or Judge shall hear argument upon the case by such of the counsel present (if any) as the Court or Judge may deem reasonable, and shall thereupon consider the case and certify to the Lieutenant-Governor in Council the opinion of such Court or Judge thereon; and the opinion shall thereupon be forthwith published in the *Ontario Gazette*, and a copy thereof sent to the Judge of every County Court. 52 V. c. 3, s. 31 (1-4).

Opinion to be published.

Opinion at instance of voter or person entitled to be voter.

39. The Court of Appeal, or a Judge thereof, may also give an opinion on any question at the instance of any voter or voters or person or persons entitled to be voters, if the said Court or Judge sees fit; and the proceedings with respect thereto shall be, as nearly as may be, the same as upon a case referred as aforesaid, but, in addition, the Court or a Judge may require a deposit of money to cover the costs of hearing the question argued by counsel, and may require the notice of the proceedings or any of them to be given to such person or persons as the Court or Judge may direct. 52 V. c. 3, s. 31 (5).

LIABILITY FOR TAXES OF PERSONS WHOSE NAMES ARE ADDED.

Liability of persons whose names are added to roll on revision.

40. If a person not assessed, or not sufficiently assessed, is found entitled to be a voter at municipal elections, the municipality shall be entitled to recover taxes from him, and to enforce payment thereof by the same means and in the same manner as if he had been assessed on the roll for the amount found by the Judge; and the Judge shall make an order (Form 20), setting forth the names of the persons so liable, and the sum for which each person should have been assessed, and the land or other property in respect of which the liability exists, and the order shall be transmitted to the clerk of the municipality, and shall have the same effect as if the said particulars had been inserted in the roll. 52 V. c. 3, s. 32.

FAILURE OF CLERK TO PERFORM HIS DUTIES.

Lists not vitiated by failure of clerk to perform duties.

41. The times appointed for the performance, by the Clerk of the Municipality, of the duties required of him by this Act, shall be directory only to the clerk; and the non-performance by him of any of the said duties within the times appointed, shall not render null, void or inoperative any of the lists in this Act mentioned. 52 V. c. 3, s. 33.

Summary application if Clerk of Municipality fails to perform his duties.

42.—(1) In case the Clerk of any Municipality fails to perform any of the duties aforesaid, the Clerk of the Peace shall forthwith apply summarily (Form 21) to the County Judge or the Junior or acting Judge of the County Court for the County

within which such municipality is situate, to enforce the performance of the same.

(2) The application may also be made by any person entitled to be named as a voter on the list in respect of which the application is made. Application by voter.

(3) The Judge shall, on such application, require (Form 22) the Clerk of the Municipality, and any other person he sees fit, to appear before him and produce the assessment roll, and any documents relating thereto, or to the list in respect to which the application is made, and to submit to such examination on oath as may be required of him or them, and the Judge shall thereupon make such orders and give such directions as he may deem necessary or proper for the purposes aforesaid. Proceedings by Judge.

(4) The Clerk of the Municipality shall be personally liable for and shall pay the costs of the proceedings, unless on some special grounds the Judge shall see fit to order otherwise, and in such special case the costs shall be in the discretion of the Judge. Liability of Clerk for costs.

(5) The proceedings and order of the Judge shall not in anywise exonerate or release the Clerk from liability to the penalty hereinafter imposed. 52 V. c. 3, s. 34. Judge's order not to relieve Clerk from penalty.

43. If a Clerk of a Municipality omits, neglects or refuses to complete the Voters' Lists, or to perform for his municipality, any of the duties hereinbefore required of him, the Clerk, for each omission, neglect or refusal, shall incur a penalty of \$200. 52 V. c. 3, s. 35. Penalty for neglect of duties by Clerk.

44. If a Clerk of a Municipality, or Clerk of the Peace, or any other person, wilfully makes any alteration, omission or incorrect insertion, or in any way wilfully falsifies any certified list or copy, or permits the same to be done, every such person shall incur a penalty of \$2,000. 52 V. c. 3, s. 36. Penalty for wilfully falsifying lists.

COLOURABLE TRANSFER OF PROPERTY.

45. No person shall make, execute, accept or become a party to any lease, deed or other instrument, or become a party to any verbal arrangement, whereby a colourable interest in any land, house or tenement is conferred, in order to qualify a person to be a voter; and any person violating the provisions of this section, besides being liable to any other penalty prescribed in that behalf, shall incur a penalty of \$100; and a person who induces or attempts to induce another to commit an offence under this section, shall incur a like penalty. 52 V. c. 3, s. 37. Colourable transfer of property in order to confer vote.

RECOVERY OF PENALTIES AND FINES.

46. The penalties mentioned in the next preceding three sections may be recovered with costs of action by any person suing for the same in any Court of competent jurisdiction. 52 V. c. 3, s. 38. Recovery of penalties.

Trial of actions for penalties.

47. Actions for penalties incurred under this Act shall be tried by a Judge without a jury. 52 V. c. 3, s. 39.

CREATION OF FALSE VOTES.

Assessor to make inquiries before assessing persons claiming to be assessed.

48.—(1) To prevent the creation of false votes, where a person claims to be assessed, or to be entered or named in any assessment roll, or claims that another person should be assessed, or entered or named in such assessment roll as entitled to be a voter, and the assessor has reason to suspect that the person so claiming, or for whom the claim is made, has not a just right to be so assessed, or to be entered or named in the roll as so entitled to be a voter, it shall be the duty of the assessor to make reasonable inquiries before assessing, entering, or naming any such person in the assessment roll.

Penalty for improper insertion of names in roll.

(2) Any person who wilfully and improperly inserts or procures or causes the insertion of the name of a person in the assessment roll, or assesses or procures or causes the assessment of a person at too high an amount, with intent in either or any such case to give to a person not entitled thereto, either the right or an apparent right to be a voter; or who wilfully inserts, or procures or causes the insertion of a fictitious name in the assessment roll, or who wilfully and improperly omits, or procures or causes the omission of the name of a person from the assessment roll, or assesses, or procures or causes the assessment of a person at too low an amount, with intent in either case to deprive a person of his right to be a voter, shall, upon conviction thereof before a Court of competent jurisdiction, be liable to a fine not exceeding \$200, and to imprisonment until the fine is paid, or to imprisonment in the common gaol of the county or city, for a period not exceeding six months, or to both fine or imprisonment, in the discretion of the Court. 52 V. c. 3, s. 40.

INSPECTION AND COPIES OF DOCUMENTS.

Right to inspect and copy assessment rolls, etc.

49. Any voter, and any person entitled to be a voter, and any agent of such voter or person, shall have liberty at all reasonable times and under reasonable restrictions, to inspect and take copies of or extracts from assessment rolls, notices, complaints, applications, and other papers and proceedings necessary or of use for the carrying out of the provisions of *The Municipal Act*, *The Assessment Act*, and this Act; and the Clerk of the Municipality is to afford for the said purposes all reasonable facilities which may be consistent with the safety of the documents, and the equal rights and interests of all persons concerned, and shall in regard to the matters aforesaid be subject to the directions and summary jurisdiction of the County Judge. 52 V. c. 3, s. 41.

Rev. Stat. cc. 223 and 224.

Clerks to furnish copies of voters' lists.

50.—(1) The Clerk of the Peace and the Clerk of a Municipality having the custody of the list of voters of a municipality or part of a municipality or place, shall furnish a

certified copy of the list, then last revised and corrected, or of any of the parts thereof, to any person who may require a copy or part, on being paid for the same by such person at the rate of four cents for every ten voters whose names are on the list or part; the said officers may furnish printed copies for each of which they shall be entitled to receive six cents instead of the fee aforesaid; and the officers shall verify alterations made therein by writing their initials in close proximity to every such alteration. If the alterations or interlineations exceed one hundred, it shall be the duty of the said officers to furnish written copies.

(2) For each copy of the Voters' List or of any of the parts thereof furnished to the Returning-Officer, according to Form 6 in Schedule A to *The Ontario Election Act*, or according to Schedule C to *The Municipal Act*, the Clerk of the Peace furnishing the same shall be entitled to receive the sum of six cents for every ten voters whose names are on such list or part as the case may be. 52 V. c. 3, s. 42.

Fees.

Rev. Stat.
cc. 9 and 223.

51. In lieu of a copy of a Voters' List or portion thereof, any person shall be entitled to demand and receive from the Clerk of the Peace or the Clerk of the Municipality (having as such the custody of the last revised and corrected list of voters for the municipality or a certified copy thereof) a copy of the statement of the alterations and corrections made by the Judge in accordance with section 21 of this Act, and the fees payable for such copy shall be at the same rates per name as for a copy of the Voters' List or of part thereof. 54 V. c. 5, s. 4.

Copies of alterations made in lists by judge to be given to applicants.

PART II.

PREPARATION OF WARD LISTS.

52. Within fifteen days after the final revision of the assessment roll for any ward or subdivision of a ward, the Clerk of every City to which, under the provisions of section 5, this Part applies, shall make up and print and distribute the alphabetical list of voters for such ward or subdivision in the manner prescribed by Part I., and forthwith after the Clerk has posted up the said list in his office, he shall give notice in the manner prescribed by section 12 of this Act and the notice shall state the boundaries of the ward or subdivision of a ward for which such list is made up. 59 V. c. 2, s. 2.

Making up, posting, etc., of lists and notice.

53. The time for making complaints as to errors or omissions in such list shall be within seven days after the publication of such notice. 59 V. c. 2, s. 3.

Time for making complaints.

54. In case no complaint respecting the list is received by the Clerk of the Municipality within seven days after he has posted up the list in his office the Clerk shall forthwith apply, in person or by letter, to the Judge to certify three copies of

Procedure when no complaint is received.

the list as being the last revised list of voters for the ward or sub-division, and the judge shall retain one of the certified copies and deliver, or transmit by post, registered, one certified copy to the Clerk of the Peace for the county or union of counties within which the city lies, and one of the certified copies to the Clerk of the Municipality to be kept by him among the records of his office. 59 V. c. 2, s. 4.

When list to
be finally
revised.

55. It shall be the duty of the County Judge so to arrange and proceed and so to fix the sittings of the court for hearing complaints against or in respect of the Voters' List for each ward or subdivision that the complaints shall be heard and determined and the list finally revised, corrected and certified in manner provided by Part I., within ten days after the last day for making complaints. 59 V. c. 2, s. 5.

All lists to be
revised by 1st
December.

56. The procedure hereinbefore prescribed shall be adopted with respect to the list for each ward or subdivision of a ward, but so that the last of such lists shall have been made up and completed and finally revised on or before the first day of December in the year in which the assessment rolls were revised as aforesaid. 59 V. c. 2, s. 6.

Final revision
of list for the
whole city.

57.—(1) Forthwith after preparing, printing and posting up the last of such lists, the Clerk shall cause the same, with the copy of each list previously revised and certified to by the judge, to be bound up together; and he shall also immediately after posting up the last list, as aforesaid, cause a notice to be inserted in each daily newspaper published in the city, calling upon persons who are aware of errors in the said lists, or of changes which have been rendered necessary by reason of the death or removal of any person named therein, or by reason of any person having acquired the necessary property qualification as a voter as hereinafter mentioned to give notice of such errors, deaths and removals, or of any person having so become qualified; and naming a time and place at which the judge will hold a court for finally revising the lists for the whole city, as well as the last of such lists.

(2) The time for making complaints under this section shall be within fourteen days after the first publication of such notice. 59 V. c. 2, s. 7.

Revision of
list at last
sittings.

58.—(1) At such last sittings the Judge, upon complaint made as aforesaid, shall make the necessary changes in the last of such lists, and he shall also, upon the like complaint, correct any error in the names, address or qualification of any person whose name appears upon the lists previously revised by him, and strike out of such lists the names of persons who have died or removed from any ward or sub-division since the revision of the list therefor as aforesaid:

Proviso.

Provided that upon complaint made by any person who has so removed into another ward, or subdivision of a ward, of the

city, the Judge after striking out the name of such person, may add the name of such person, if otherwise duly qualified, to the list of voters for the ward, or subdivision into which he shall have so removed.

(2) The Judge shall also at such sittings upon complaint made as aforesaid, insert in the proper list the name of any person who has acquired the necessary property qualification by himself or his wife becoming a freeholder or tenant in any ward or subdivision of a ward since the revision of the list for such ward or subdivision;

Voters who have acquired freehold or household qualification since revision of ward or subdivision list.

Provided that no person shall be entitled to have his name inserted in the list under this subsection, unless the property in respect of which he qualifies was acquired at least one month before the last day upon which he could make complaint as aforesaid, and provided that wherever a name is inserted in the Voters' List under this subsection, the Judge shall require the Clerk to produce the assessment roll before him and shall make and initial the alterations therein corresponding with the changes made in the Voters' List. 59 V. c. 2, s. 8.

59. The Judge shall make the corrections required by the last preceding section in his certified copy of the Voters' List for each ward or sub-division, and shall initial the alterations so made, and the Clerk shall likewise make the same alterations in his certified copies, and when so made the alterations shall be initialled by the Judge, and the Clerk shall forthwith prepare a list of all changes made in the lists at the said last sittings, which shall be certified by the Judge, and delivered to the Clerk of the Peace with the last list as revised, and the Clerk of the Peace shall bind up the same with the copies previously certified by the Judge, and delivered to such Clerk. 59 V. c. 2, s. 9.

Making corrections in list at last sittings.

60. The said lists, as so finally revised, corrected and certified, shall together form, from time to time, the last revised Voters' List for the city, within the meaning of this Act, *The Ontario Election Act* and *The Municipal Act*, and the date fixed as the last day for making complaints to the County Court Judge under section 58 of this Act shall be deemed to be the last day for making complaints to the County Court Judge, within the meaning of any oath prescribed by any of the said Acts, and such date shall be inserted in any such oath when the voting is upon a Voters' List prepared under this Act. 59 V. c. 2, s. 10.

Last revised voters' list within meaning of certain statutes. Rev. Stat. cc. 9 and 223.

PART III.

LISTS IN UNORGANIZED TERRITORY.

Sheriff to prepare lists in unorganized territory.

61. Voters' Lists for unorganized territory, where there are no assessment rolls, shall be prepared annually by the Sheriff of the electoral district or such part thereof over which he has jurisdiction as Sheriff. 55 V. c. 2, ss. 1, 3.

Where no sheriff police magistrate to act.

62. (1) In case there is no Sheriff for the district, or in case there is a part over which a Sheriff has no jurisdiction the duties by this Part assigned to a Sheriff shall, as to such district or part, be performed by a Police Magistrate, having jurisdiction as such in some part of the electoral district, or by the senior Police Magistrate if there are more Police Magistrates than one in the electoral district, and the Police Magistrate performing the duties shall have the same powers in the matter as a Sheriff would have.

(2) Every Sheriff or Police Magistrate shall before entering upon his duties take an oath of office before a District or County Judge or Stipendiary Magistrate according to Form 24 to this Act, which oath he shall forthwith thereafter cause to be filed with the Clerk of the Crown in Chancery at Toronto. 55 V. c. 2, s. 4.

Copy of Part and notice of preparation of list to be posted up.

63. So soon after the first day of June in each year as may be convenient the officer whose duty it is to prepare a list of voters under this Part shall cause to be posted in a conspicuous manner throughout those parts of the electoral district which consist of unorganized territory where there are no assessment rolls, at every public and separate school house, and at every statutory polling place, and at every other place at which a poll was held at the last election to the Legislative Assembly a copy of this Part of this Act and one or more printed notices in accordance with Form 23 appended to this Act; and the said officer shall attend at the time and place mentioned in the said notice. 58 V. c. 4, s. 13.

Duties of sheriff or magistrate.

64. Save as otherwise provided by this Part, the sheriff or the Police Magistrate (as the case may be) shall, so far as the same are reasonably applicable to the unorganized territory, perform the duties assigned to the Clerks of Municipalities, the Court of Revision, and the Judge, elsewhere in the Province, and the forms and notices, as well as other proceedings generally, shall unless otherwise provided by this Part be the same as nearly as may be, and be taken at and within the same times and with the same effect as in case of the voters' lists elsewhere in the Province as aforesaid. 55 V. c. 2, s. 6.

Proceedings.

Sheriff or magistrate to ascertain who may vote.

65. —(1) Not less than thirty days after the posting of such notices the Sheriff or Magistrate shall personally, or by deputies

appointed by himself, visit every part of the territory where there is by law required to be a polling place or where a poll was held by order of the Lieutenant-Governor in Council at the next previous election to the Legislative Assembly and shall by all convenient means available endeavour to ascertain the names of all the persons who are entitled to have their names inserted in such lists, including any who may deliver to the Sheriff or Magistrate the affidavit (as nearly as may be) which is provided by section 15 of *The Assessment Act*.

Rev. Stat.
c. 224.

(2) For the purposes of this Act a Sheriff or Police Magistrate shall not appoint more than three deputies in one electoral district. No officer of any of the departments shall be appointed a deputy. 55 V. c. 2, s. 7.

66. The list shall be in several parts, one part for each polling place named by the statute, or by the Lieutenant-Governor in Council, under the authority of the statute in that behalf; and therein the Sheriff or Magistrate as the case may be shall assign to each polling place the voters for whom such polling place may appear to him to be most convenient. 55 V. c. 2, s. 8, part.

List to have
separate part
for each
polling place.

67. The Sheriff or Police Magistrate as the case may be, or any deputy acting on his behalf, shall on the completion of the Voters' Lists for the Electoral District for which he has acted, attach thereto an affidavit or solemn declaration to be taken or made before the District or County Judge or Stipendiary Magistrate in the form following:—

Affidavit veri-
fying voters'
list.

I, (name and title) make oath and say (or solemnly declare or affirm) that I have set down in the above Voters' Lists for the Electoral District of according to the best of my information and judgment the name of every person entitled to be entered thereon, and that I have not intentionally omitted from the said list the name of any person whom I knew or had good reason to believe was or is entitled to be entered thereon, and further say that I have to the best of my knowledge and belief discharged the duties required of me by *The Ontario Voters' Lists Act*.

Sworn [or affirmed] before me at in the District of
this day of , 18 .

55 V. c. 2, s. 12.

APPEALS.

68.— (1) There shall be an appeal to the Stipendiary Magistrate having jurisdiction in the locality, or where there is no such Stipendiary Magistrate then to the District or County Judge in the same manner as an appeal lies from the Court of Revision to the County Judge elsewhere in the Province, and the Stipendiary Magistrate or Judge is to attend to hear any such appeals at such places in the Electoral District as may be reasonably convenient for the parties concerned, and is to give due notice thereof as the case may require.

Appeal to
district or
county
judge.

(2) Any voter may appeal to a Stipendiary Magistrate or District or County Court Judge with respect to the polling place at which his name is entered as a voter as well as in regard to any other matter or thing for which appeals are allowed under this Act. 55 V. c. 2, s. 9.

Appeals.

69.—(1) Appeals shall be heard by the Stipendiary Magistrate, District or County Judge, as the case may be, at all places in the unorganized portion of the Electoral District at which appeals are heard under *The Electoral Franchise Act* of the Dominion of Canada or at which sittings of the Division Court are held and at such other places as in the opinion of the Stipendiary Magistrate, District or County Court Judge, as the case may be, may be considered necessary. At least thirty days' notice for the hearing of such appeals shall be given (Form 25) by publication in any newspaper published in the District and by poster as required under section 63 of this Act. 55 V. c. 2, s. 11.

(2) The proceedings upon and in respect to such appeals shall be, as nearly as may be, the same as upon appeals under Part I of this Act, and the officer hearing the appeal shall have the same authority as a Judge hearing an appeal under Part I aforesaid. 60 V. c. 15, Sched. A (44).

Certified list to be deposited in certain offices.

70. In case, there is no appeal within 30 days, from the list as at first prepared and published, or in case of appeals as herein provided, the person by whom such list was prepared, or appeals heard and determined, (as the case may be) shall forthwith, after the said period of 30 days or forthwith after the determination of such appeals, deposit in the offices of the Sheriff, the Stipendiary Magistrate, the Police Magistrate and the Clerk of the Peace, respectively, a certified copy of such list or in case of appeals a certified copy of the list, as finally revised and corrected, and in the event of a vacancy in any of the offices aforesaid, or if in any such district any of the said offices is not provided for, then in such of the said offices as there may be. 55 V. c. 2, s. 10.

Fees and expenses.

71. Any Judge, Sheriff, Stipendiary or Police Magistrate for preparing or revising the Voters' List required by this part shall be entitled to receive the sum of \$4 per day for the time during which he was engaged therein, and all reasonable personal expenses and disbursements, and any person acting as the deputy of such officer for any purpose required by this Part shall be entitled to receive the sum of \$2 per day and all reasonable personal expenses and disbursements. All expenses for preparing the list of voters and incident thereto under this Part shall be paid by the Province out of any moneys which may be appropriated for that purpose. 55 V. c. 2, s. 13 ; 60 V. c. 15, Sched. A, (45).

OFFICERS NOT TO BE CANDIDATES.

72. No officer concerned in the preparation of the Voters' List under this Part, nor any officer in whose office such Voters' List is deposited under section 70 shall be a candidate for election to the Legislative Assembly at any election for which the Voters' List prepared by such officer or in the custody of such officer is used for such election. Nor shall any Police Magistrate nor any deputy appointed under this Part have the right to vote at any such election. 55 V. c. 2, s. 16.

Officer preparing list not to be a candidate.

PENALTIES.

73. Every person who is appointed to any office or employment under this Part, or required by this Part to do any matter or thing, shall for every wilful misfeasance or for any wilful act or omission contrary to this Part, forfeit to any person aggrieved thereby the penal sum of \$500, or such less sum as the jury, or Judge, if the case may be tried without a jury, before whom any action brought for the recovery of such penalty is tried, considers just to be paid to such person aggrieved; and the same shall be recoverable by such person with full costs of suit, by suit or action in any court of competent jurisdiction; but nothing herein contained shall interfere with any other remedy, civil or criminal against such person. 55 V. c. 2, s. 17.

Penalty for misconduct of officers.

VOTERS' LISTS PREPARED IN 1895.

74. Unless and until a new Voters' List has been or shall be prepared under an Act of the Legislature of this Province, the Voters' Lists prepared and certified in the year 1895, under *The Act respecting Voters' Lists in Unorganized Territories*, passed in the fifty-fifth year of Her Majesty's reign, shall at any election to the Legislative Assembly be the lawful Voters' Lists for the polling sub-divisions to which such Voters' Lists are applicable. 59 V. c. 3, s. 2.

Present voters' list to continue until other provision made. 55 V. c. 2.

SCHEDULE OF FORMS.

FORM 1.

(Sections 6, 7.)

FORM OF VOTERS' LIST.

Voters' List, 18 Municipality of

SCHEDULE OF POST OFFICES.

- | | |
|-------------------|----------------------|
| 1. North Augusta, | 3. Wright's Corners. |
| 2. Maitland. | 4. Prescott. |

POLLING SUBDIVISION No. 1, COMPRISING, ETC. :—(*Giving the limits.*)

PART I.—Persons entitled to vote at BOTH Municipal Elections and Elections to the Legislative Assembly.

NO. ON ROLL.	NAME.	LOT.	CON. OR STREET.		POST OFFICE ADDRESS.
6	Anderson, Henry	N W $\frac{1}{2}$ 6	3	M. F. and Owner	1
14	Andrews, John.....	W 14 acres 8	1	M. F. and Tenant	4
1	Archer, James	2	9	M. F. and Income	4
50	Brown, Simon	W $\frac{1}{2}$ 9	2	M. F. and F.S.	3
71	Burton, Samuel	E $\frac{1}{2}$ 17	4	See Subdiv. No.	2
	Etc.	Etc.	Etc.	Etc.	Etc.

PART II.—Persons entitled to vote at Municipal Elections ONLY.

NO. ON ROLL.	NAME.	LOT.	CON. OR STREET.		POST OFFICE ADDRESS.
4	Archer, Henry	4	3	Owner.	2
82	Burke, Edmund	W $\frac{1}{2}$ 17	4	Farmer's Son.	3
	Etc.	Etc.	Etc.	Etc.	Etc.

PART III.—Persons entitled to vote at Elections to the LEGISLATIVE ASSEMBLY ONLY.

NO. ON ROLL.	NAME.	LOT.	CON. OR STREET.		POST OFFICE ADDRESS.
43	Acroyd, James	N $\frac{1}{2}$ 3	4	M. F.	3
8	Amos, Joseph	3	7	M. F.	3
	Etc.	Etc.	Etc.	Etc.	Etc.

POLLING SUBDIVISION No. 2, COMPRISING, ETC. :—(*Giving the limits.*)

Etc.,

Etc.,

Etc.

52 V., c. 3, Form 1.

FORM 2.

(Section 10.)

CERTIFICATE TO BE ENDORSED ON VOTERS' LIST.

I, A. B., Clerk of the Municipality of _____, in the County of _____, do hereby certify that Parts 1 and 3 of the within (or above) list constitute a correct list for the year 18____ of all persons appearing by the last revised Assessment Roll of the said Municipality to be entitled to vote at Elections for Members of the Legislative Assembly; and that Parts 1 and 2 constitute a correct list for the said year of all persons appearing by the said Roll to be entitled to vote at Municipal Elections in the said Municipality; and I hereby call upon all electors to examine the said list, and if any omissions or other errors are perceived therein, to take immediate proceedings to have the said errors corrected according to law.

Dated this _____ day of

A. B.,

Clerk of

52 V., c. 3, Form 2.

FORM 3.

(Section 12.)

CLERK'S NOTICE OF FIRST POSTING OF VOTERS' LIST.

Voters' List, 18____.—Municipality of the _____ of
County of _____

Notice is hereby given, that I have transmitted or delivered to the persons mentioned in sections 8 and 9 of *The Ontario Voters' Lists Act*, the copies required by said sections to be so transmitted or delivered of the list, made pursuant to said Act, of all persons appearing by the last revised Assessment Roll of the said Municipality to be entitled to vote in the said Municipality at Elections for Members of the Legislative Assembly and at Municipal Elections; and that the said list was first posted up at my office, at _____, on the _____ day of _____, 18____, and remains there for inspection.

Electors are called upon to examine the said list, and, if any omissions or any other errors are found therein, to take immediate proceedings to have the said errors corrected according to law.

Dated, etc

A. B.,

Clerk of

52 V., c. 3, Form 3.

FORM 4.

(Section 14, Sub-sec. 1.)

VOTERS' NOTICE OF COMPLAINT ON GROUND OF DISQUALIFICATION.

To the Clerk of the Municipality of the _____ of _____

I, *Angus Bell*, a voter (or a person entitled to be a voter) in the said Municipality (or for the Electoral District in which the said Municipality is situated), complain that the name of *John Jack* is wrongly entered in the Voters' List for the said Municipality, he being a person disqualified

under the section of (*here name the Act or Acts*): And take notice that I intend to apply to the Judge in respect thereof, in pursuance of the statute in that behalf.

Dated the day of

18 .

ANGUS BELL,

Residence—Township of York

52 V., c. 3, Form 4.

FORM 5.

(*Section 14, Subsec. 2.*)

NOTICE AND APPLICATION BY VOTER WHO HAS ACQUIRED PROPERTY SINCE ASSESSMENT.

To the Clerk of the Municipality of the of .

I, *Luke Doran*, a person entitled to be a voter in the said Municipality, complain that the name of *Peter Short* is wrongly inserted in the Voters' List for the said Municipality, he having before the final revision and correction of the Assessment Roll transferred to me the property in respect to which his name is entered on the said List (*or parted with the property in respect to which his name is entered on the Voters' List*), and that I am in possession of the same: And take notice that I intend to apply to the Judge to have my name entered on the said List, instead of the said *Peter Short*, pursuant to the provisions of the statute in that behalf.

Dated the

day of

18 .

LUKE DORAN.

52 V. c. 3, Form. 5.

FORM 6.

(*Sec. 17, Subsec. 1.*)

VOTERS' NOTICE OF COMPLAINT.

To the Clerk of the Municipality of the of .

I, *James Smith*, a voter (*or person entitled to be a voter*) for the Electoral District of , in which the said municipality is situated, complain (*state the names of the persons in respect to whom complaint is made, and the ground of complaint touching each person respectively—or set forth in lists as follows, varying according to circumstances*) that the several persons whose names are set forth in the sub-joined list No. 1 are entitled to be voters in the said Municipality, as shewn in said list, but are wrongfully omitted from the Voters' List:—That the several persons whose names are mentioned in the first column of the subjoined list No. 2 are wrongly stated in the said Voters' List, as shewn in said list No. 2:—That the several persons whose names are set forth in the first column of the subjoined list No. 3 are wrongfully inserted in the said Voters' List, as shewn in said list No. 3:—And that there are errors in the description of the property in respect to which the names respectively are entered on the Voters' List.

(or stating other errors), as shewn in the subjoined list No. 4 :—And take notice, that I intend to apply to the Judge in respect thereof, pursuant to the statute in that behalf.

Dated the day of 18 .

JAMES SMITH,
Residence—Township of *Beby*.

*Lists of Complaints mentioned in the above Notice of
Complaints.*

LIST No. 1 (*shewing voters wrongfully omitted from the Voter's List*).

NAMES OF PERSONS.	GROUND ON WHICH THEY ARE ENTITLED TO BE ON THE VOTERS' LIST.
James Tupper....	Tenant to John Fraser, of N. $\frac{1}{2}$ lot 1, 2nd Con.
Simon Beauclerk..	Manhood Franchise Voter.
Angus Blain.....	Assessed too low—property worth. \$

LIST No. 2 (*shewing voters wrongly named in Voters' List*).

NAMES OF PERSONS.	POLLING SUB-DIVISION.	PART OF LIST.	THE ERRORS IN STATEMENT UPON VOTERS' LIST.
Joshua Townsend.	2	1	Should be <i>Joseph</i> Townsend.
John McBean....	4	1	Should be John McBean <i>the younger</i> .
S. Connell.....	3	2	Should be <i>Simon</i> O'Connell. etc., etc.

LIST No. 3 (*shewing persons wrongfully inserted in the Voters' List*).

NAMES OF PERSONS.	POLLING SUB-DIVISION.	PART OF LIST.	STATEMENT WHY WRONGFULLY INSERTED IN VOTERS' LIST.
Peter White.....	4	1	Died before final revision of roll.
John May.....	3	2	Not entitled to Manhood Franchise.
David Walters....	2	2	Assessed too high — property worth under \$ etc., etc.

LIST No. 4 (*showing voters whose property or qualification is erroneously described in Voters' List, etc.*)

NAMES OF PERSONS.	POLLING SUB-DIVISION.	PART OF LIST.	ERRORS IN RESPECT TO PROPERTY OR OTHERWISE STATED.
Stephen Washburn	2	2	Name should be in Sub-division No. 2.
Thomas Gordon ..	3	1	Property should be W. $\frac{1}{2}$ lot 7, in 3rd Con.
Ronald Blue	4	2	Should be described as owner, not tenant.

FORM 7.

(Section 17.)

CLERK'S REPORT IN CASE OF APPEALS AND COMPLAINTS TO THE JUDGE.

To His Honour the Judge of the County Court of the County of

The Clerk of the Municipality of _____ states and reports that the several persons mentioned in column 1 of the Schedule below, and no others, have each given to him (or left for him at his residence or place of abode, *as the fact may be*) written notice complaining of errors or omissions in the Voters' List for the said Municipality for 18____, on the grounds mentioned in column 2 of the said Schedule, and that such notices were received respectively at the dates set down in column 3 of the said Schedule.

Dated, etc.

A. B.,
Clerk of

Schedule.

1 NAME OF COMPLAINANTS.	2 ERRORS OR OMISSIONS COMPLAINED OF.	3 DATE WHEN NOTICE OF COM- PLAINT RECEIVED BY CLERK.

52 V. c. 3, Form 7.

FORM 8.

(Section 17.)

JUDGE'S ORDER APPOINTING COURT FOR HEARING COMPLAINTS AND APPEALS.

To _____, Clerk of the Municipality of the

Upon reading your report and notification respecting the Voters' List for the said Municipality for 18____, pursuant to the statute in that behalf, I appoint the _____ of _____ 18____, at the hour of _____ at _____ in the said county, for holding a Court to hear and determine the several complaints of errors and omissions in the said Voter's List, of which due notice has been given.

You are constituted Clerk of the Court.

You will advertise the holding of such Court, and post up in your office, or the place in which the Council hold their sittings, a list of all complaints of errors and omissions in the said Voters' List; and you will notify all parties concerned according to law.

Let the Assessor for the Municipality attend the sittings of the said Court, and let the original Assessment Roll of the Municipality for 18____, and the minutes of the Court of Revision for the Municipality for 18____, be produced before me or the Acting Judge, on the day and at the place above mentioned.

Dated _____ day of _____ 18____.

Judge C. C.

52 V. c. 3, Form 8.

FORM 9.

(Section 17.)

NOTICE TO BE POSTED BY CLERK IN HIS OFFICE WITH LIST OF COMPLAINTS.

Notice is hereby given, that a Court will be held, pursuant to *The Ontario Voter's Lists Act*, at _____, on the _____ day of _____ 18____, at _____ o'clock, _____ for the purpose of hearing all complaints made against the Voters' List for the Municipality of _____ for 18____, particulars of which complaints are shown in the subjoined Schedule.

All persons having business at the Court are hereby required to attend at the said time and place.

Dated, etc.

A. B.

Clerk of

SCHEDULE.

NAME OF PARTY COMPLAINING.	NAME OF PERSON IN RESPECT TO WHOM APPEAL WAS MADE.	GROUND'S OF COMPLAINT ALLEGED.

52 V. c. 3, Form 9.

FORM 10.

(Section 17.)

CLERK'S ADVERTISEMENT OF COURT IN NEWSPAPER.

Notice is hereby given that a Court will be held, pursuant to *The Ontario Voters' Lists Act*, by His Honour the Judge of the County Court of the County of _____, at _____, on the _____ day of _____ 18____, at _____ o'clock, _____ to hear and determine the several complaints of errors and omissions in the Voters' List of the Municipality of _____ for 18____.

All persons having business at the Court are required to attend at the said time and place.

Dated, &c.

A. B.,

Clerk of

52 V., c. 3, Form 10.

FORM 11.

(Section 17.)

CLERK'S NOTICE TO PARTY COMPLAINING.

The Ontario Voters' Lists Act.

You are hereby notified that, pursuant to the Statute in that behalf, a Court for the Revision of the Voters' List, 18 , for the Municipality of , will be held by the Judge (or acting Judge) of the County Court of the County of , at , on the day of , 18 , at o'clock, at which Court all complaints duly lodged of any error or omission in the said List will be heard and determined. A list of said complaints is posted up in and you are hereby required to be and appear at such Court; and take notice, that the Judge may proceed to hear and determine the complaints, whether the parties complaining appear or not.

By order of His Honour the Judge of the County Court of the County of

Dated day of 18 .

To

A person complaining of error in the }
said Voters' List.

A. B.,

Clerk of the Municipality of , and
Clerk of the said Court.

52 V., c. 3, Form 11.

FORM 12.

(Section 17.)

CLERK'S NOTICE TO PARTY COMPLAINED AGAINST.

The Ontario Voters' Lists Act.

You are hereby notified that, pursuant to the Statute in that behalf a Court for the Revision of the Voters' List, 18 , for the Municipality of , will be held by the Judge (or acting Judge) of the County Court of the County of , at , on the day of , 18 , at o'clock, and you are required to appear at the said Court, for that has complained that your name is wrongly inserted in the said Voters' List because, etc., (*state matter of complaint concisely*). A list of all complaints lodged is posted up in ; and take notice, that the Judge may proceed to hear and determine the said complaint, whether you appear or not.

By order of his Honour the Judge of the County Court of the County of

To

Entered on said Voters' List.

A. B.,

Clerk of the said Municipality, and
Clerk of the said Court.

52 V., c. 3, Form 12.

FORM 13.

(Section 18, Sub-sec. 1.)



SUBPŒNA.

ONTARIO :
County of , } VICTORIA, by the Grace of God, of the United
To Wit. . } Kingdom of Great Britain and Ireland, Queen,
Defender of the Faith.

To

Greeting :

We command you, that, all excuses being laid aside, you be and appear in your proper person before our Judge of our County Court of the County of , at , on the day of 18 , at o'clock in the noon, at a Court appointed, and there and then to be held, for hearing complaints of errors in the Voters' List for 18 , of the Municipality of the of , in the County of , and for revision of the said Voters' List, then and there to testify to all and singular those things which you know in a certain matter (or matters) of complaint made and now depending before the said Judge, under *The Ontario Voters' Lists Act*, wherein one is complainant, and which complaint is to be tried at the said Court. Herein fail not.

Witness, His Honour
the day of

, Judge of our said Court at
, in the year of our Lord 18 .

A. B.,
Clerk.

52 V., c. 3, Form 13.

FORM 14.

(Section 20.)

REPORT OF CLERK WHEN APPLYING FOR CERTIFICATE UNDER
SECTION 20.

To the Judge of the County Court of the County of .

I, , Clerk of the Municipality of , in the said County of , do hereby certify as follows :

That I did, on the day of , 18 , post up, and for a period of thirty days next thereafter did keep posted up in a conspicuous place in my office at , a true and correct printed copy of the Voters' List for the said Municipality of for 18 , made in pursuance of *The Ontario Voters' Lists Act*, with the certificate required by section 10 of the said Act endorsed thereon.

That I did also duly deliver and transmit by post, by registered letter (or, by parcel post registered), the required number of similar printed copies of the said Voters' List, with my certificate endorsed, to each

and all of the persons entitled to the same under sections 8 and 9 of said Act.

That I did on the day of , 18 , cause to be inserted in the newspaper called the " ," published in , the notice required by section 12 of the said Act.

That no person gave me nor did I, within thirty days after I, the said Clerk, had posted up the said List in my office, as directed by the provisions of the said Act, receive any written notice of complaint and intention to apply to the Judge or Junior or acting Judge of the County Court of said County of in respect to the said Voters' List.

And that to the best of my knowledge and belief, I have complied with the several requirements of the said Act, so as to entitle me to apply for certified copies under section 20 of the said Act, and I do hereby, in pursuance thereof, now apply to you the said Judge to certify three of the copies of the said List received by you as being the Revised List of Voters for the municipality of the said of for the year of our Lord 18 .

Witness my hand this day of 18 .

Clerk of the Municipality of

..... P. O.

52 V., c. 3, Form 14.

FORM 15.

(Section 20.)

CERTIFICATE WHERE NO COMPLAINTS.

County of

A. B., Clerk of the Municipality of the , having certified under his hand that no complaint respecting the List of Voters for said municipality, for the year, 18 , had been received by him within thirty days after the first posting up of the same; and on application of the Clerk,

I, , Judge of the County Court of the County of , in pursuance of the provisions of *The Ontario Voters' List Act*, certify that the annexed printed List of Voters, being one of the copies received by me from the said Clerk, under section 8 of the said Act, is the Revised List of Voters for the said Municipality for the year 18 .

Given under my hand and seal, at , this day of , 18 .

Judge.

52 V., c. 3, Form 15.

FORM 16.

(Section 21, Subsec. 1.)

STATEMENT OF ALTERATIONS BY JUDGE.

Be it remembered, that upon a final revision and correction of the List of Voters of the Municipality of the _____ of _____ for the year 18____, pursuant to the provisions of *The Ontario Voters' Lists Act*, the following changes were duly made by me in the copies of the said list received by me from the Clerk of the said Municipality, viz. :—

1. The following persons are added to the said list :—

NAME.	POLLING SUB-DIVISION.	PART OF LIST.	PROPERTY, OR OTHER QUALIFICATION.

2. The following persons are struck off the said list :—

NAME.	POLLING SUB-DIVISION.	PART OF LIST.	PROPERTY, OR OTHER QUALIFICATION.

3. The following changes are made in the property described opposite to the names of voters otherwise correctly inserted :—

NAME.	POLLING SUB-DIVISION.	PART OF LIST.	PROPERTY, OR OTHER QUALIFICATION AS ORIGINALLY DESCRIBED ON LIST.	PROPERTY, OR OTHER QUALIFICATION AS ALTERED.

4. The following changes are made in the names of voters incorrectly named :—

NAME ORIGINALLY ON LIST.	POLLING SUB-DIVISION.	PART OF LIST.	NAME AS ALTERED.	PROPERTY, OR OTHER QUALIFICATION.

Witness my hand this

day of _____ A.D. 18 ____.

County Judge, County of _____

FORM 17.

(Section 21, Subsec. 1.)

CERTIFICATE OF JUDGE.

I, _____, Judge of the County Court of the County of _____, pursuant to section 21 of *The Ontario Voters' Lists Act*, do hereby certify that the above (*as the case may be*) is a corrected copy of the List of Voters, for the year 18____, received by me from the Clerk of the Municipality of the _____ of _____, according to my revision and correction thereof, pursuant to the provisions of the said Act.

Dated at _____, this _____ day of _____, 18____

Judge.

52 V. c. 3, Form 17

FORM 18.

(Section 34, Subsec. 1.)

ORDER FOR PAYMENT OF COSTS.

The Ontario Voters' Lists Act.

In the matter of the Voters' List for the Municipality of _____ 18____, and of the complaint and appeal to the Judge of the County Court of the County of _____, by *A. B.*, complaining of the name of *C. D.* being wrongly inserted in the said list (*or, as the case may be, stating in brief the nature of the complaint.*)

On proceedings taken before me, pursuant to the said Act, I find and adjudge that the name of the said *C. D.* was rightly inserted in the said list (*or, was wrongly inserted in the said list*), and order that the said *A. B.* do pay the said *C. D.* his costs occasioned by the said complaint (*or, and order that the said C. D. shall pay the said A. B. his costs incident to the said complaint—or, and order that E. F., the Assessor of the said Municipality, being blameable for such wrong insertion, do pay the said A. B. his costs incident to the said complaint,—or, as the case may be, stating it in brief*), said costs to be taxed pursuant to the said Act.

Dated at _____, this _____ day of _____, 18____

Judge.

52 V. c. 3, Form 18

FORM 19.

(Section 37.)

WRIT OF EXECUTION.

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

To the Sheriff of the

GREETING :—

We command you that of the goods and chattels in your bailiwick of *C. D.*, you cause to be made \$, for certain costs which lately by an order of His Honour , Judge of the County Court of , dated the day of , 18 , were ordered to be paid by the said *C. D.* to *A. B.*, as and for his costs sustained by him on the trial of a complaint against the Voters' List for the Municipality of , in the said County, for 18 , made and prosecuted under the provisions of *The Ontario Voters' Lists Act*, which said costs have been taxed and allowed at the said sum, as appears of record; and have that money before Our Judge of Our said Court at immediately after the execution hereof; and in that manner you shall have executed this Our writ, make appear to Our Judge aforesaid at immediately after the execution thereof, and have you there then this writ.

Witness, His Honour , Judge of Our said Court, at
 , the day of , in the year of our
 Lord 18 .

A. B.,
Clerk.

52 V. c. 3, Form 19.

FORM 20.

(Section 40.)

ORDER FOR ASSESSMENT OF PERSONS OMITTED FROM ROLL, ETC.

In the matter of assessment for the year 18 , in the Municipality of

The persons mentioned in the first columns of the Schedules following not being assessed, or not being sufficiently assessed, on the Assessment Roll of the Municipality of , for the year 18 , and having been found entitled to vote, on proceedings taken before me, Judge of the County of , under *The Ontario Voters' Lists Act*. In pursuance of section 40 of the said Act, it is adjudged that the said parties mentioned in the first columns of the following Schedules respectively should have been assessed for the sums mentioned in the second columns respectively opposite their respective names, in respect to the land or other property or qualification mentioned in the third columns of said Schedules respectively opposite the respective names of said parties, and it is ordered that the said parties shall be assessed accordingly.

Dated the day of A.D. 18 .

Judge.

Schedule 1.

Column 1.	Column 2.	Column 3.
Names of persons liable to have been assessed on the Assessment Roll for the Municipality of for the year 18 , but not assessed.	Amount for which the parties should have been assessed.	Property in respect to which the liability to assessment exists.

Schedule 2.

Column 1.	Column 2.	Column 3.
Names of persons not sufficiently assessed on the Assessment Roll for the Municipality of for the year 18 .	Amount for which the parties should be assessed in addition to the amount already on the Assessment Roll.	Property in respect to which the liability to assessment exists.

52 V. c. 3, Form 20.

FORM 21.

(Section 42, Subsec. 1.)

APPLICATION TO JUDGE AGAINST DELINQUENT CLERK.

Pursuant to section 42 of *The Ontario Voters' Lists Act*, I, A. B., Clerk of the Peace for the County of (or, a person entitled to be named as an elector on the Voters' Lists for the Municipality of , for 18 ,) hereby inform His Honor the Judge of the County Court of the said County, that C. D., Clerk of the Municipality of , in the said County, has failed to perform the duties required of him as such Clerk by the said Act, in this, that he the said C. D. has not made out the Alphabetical List of Voters for 18 , for the said Municipality, within thirty days after the final revision and correction of the Assessment Roll thereof or, has not delivered or transmitted printed copies of the Voters' List for the said Municipality, for 18 , to and and or to any of them, or, as the case may be, stating in brief the duty not performed), according to the requirements of the said Act; and I apply to you the said Judge to enforce the performance of the duties aforesaid, and to take such other proceedings as may be necessary.

Dated at , this day of 18 .

A. B.
Clerk of the Peace.

52 V. c. 3, Form 21.

FORM 22.

(Section 42, Subsec 3.)

SUMMONS.

The Ontario Voters' Lists Act.

In the matter of the Voters' List for the Municipality of _____
in the County of _____, for 18 ____.

Whereas it appears by the application of *A. B.*, the Clerk of the Peace for the said County (*or*, a person entitled to be named as an elector on the said List), made to me, in pursuance of the said Act, that you, *C. D.*, the Clerk of the said Municipality, have failed to perform certain duties required of you by the said Act, in this, that you have not made out the Alphabetical List of Voters for 18 __, for the said Municipality, within thirty days after the final revision and correction of the Assessment Roll thereof (*or, as the case may be, following the application*); and whereas the said *A. B.* has applied to me to enforce the performance of the duties aforesaid;

You, the said *C. D.*, are therefore hereby required to be and appear before me at my Chambers, in _____, on the _____ day of _____, 18 __, at the hour of _____, and then and there have with you and produce before me the Assessment Roll for 18 __, for the said Municipality, and any documents in your custody, power or control, relating to the Assessment Roll, or to the Voters' List aforesaid; and then and there submit yourself for examination on oath as may be required of you. Herein fail not at your peril.

Dated this _____ day of _____ 18 ____.

To *C. D.*,

Clerk of the Municipality of _____

Judge.

52 V. c. 3, Form 22.

FORM 23.

(Section 62.)

ONTARIO VOTERS' LISTS ACT.

Take notice that _____ (*here insert the name of the Sheriff or Police Magistrate as the case may be*) will be in attendance at _____ (*here insert the place*) from ten o'clock in the forenoon till four o'clock in the afternoon on the _____ days of _____ 18 __, to enrol the names of all persons qualified to vote for members of the Legislative Assembly.

Appeals with respect to the omission of voters or the improper enrolment of any alleged voter or as to any error made by the sheriff or police magistrate as to the place at which a voter may vote may be made to _____

(*here insert the name of the Stipendiary Magistrate or District Judge as the case may be*).

(Signed)

Sheriff or Police Magistrate.

Dated at _____, this _____

day of _____ 189 ____.

55 V. c. 2, Form A.

FORM 24.

(Section 62.)

OATH OF OFFICERS PREPARING VOTERS' LISTS IN UNORGANIZED TERRITORY.

I, _____ of the _____ of _____, in the district of _____ and Province of _____, the officer whose duty it is under *The Ontario Voters' Lists Act* to prepare the Voters' Lists in and for the electoral district (or portion of the electoral district) of _____ in the Province of _____, do hereby solemnly swear (or affirm) that I will well and faithfully discharge the duties assigned to me by the said Act without favor or partiality; that I will place no name on the list of voters for the said electoral district (or portion of the said electoral district) or any of the polling districts thereof, and will strike no name off the same, unless I shall be satisfied that such name should by law be placed on or struck off such list; and that I will in all respects, to the best of my judgment and ability, conform to the said Act and the law, So help me God.

Sworn before me, at the _____ of _____ in the County of _____, and Province of _____ this _____ day of _____ A. D. 18 ____.

(District or County Judge, or Stipendiary Magistrate,
as the case may be.)

55 V. c. 2, Form C.

FORM 25.

(Section 69.)

ONTARIO VOTERS' LISTS ACT.

Take notice that the undersigned will be in attendance at _____ (here insert the place) at _____ o'clock, on the _____ day of _____, to hear appeals with respect to the Voters' Lists for the Electoral District of _____.

(Stipendiary Magistrate, District or County Judge,
as the case may be).

55 V. c. 2, Form B.

CHAPTER 8.

An Act respecting the Registration of Manhood Suffrage Voters in Cities and County Towns.

SHORT TITLE, s. 1.
 INTERPRETATION, ss. 2, 5 (1).
 CERTAIN NAMES NOT TO BE PLACED ON ASSESSMENT ROLL OR ON REVISED VOTERS' LIST, s. 3.
 WHO MAY BE REGISTERED, ss. 4, 6.
 PERSONS UNABLE TO ATTEND, s. 5.
 HOW BOARDS OF REGISTRARS CONSTITUTED, ss. 7-12.
 MUNICIPALITIES TO PROVIDE ACCOMMODATION, s. 13.
 DIVISION INTO REGISTRATION DISTRICTS, ss. 14-19.
 PROCEEDINGS WHEN A GENERAL OR BY-ELECTION IS TO BE HELD, s. 20.
 APPOINTMENT OF REGISTRY CLERKS, s. 21.
 SITTINGS OF REGISTRARS, ss. 22-25.
 BOOKS TO BE PROVIDED BY CHAIRMAN, s. 26.
 PROCEDURE FOR REGISTRATION, s. 27.
 APPEALS, ss. 28-30.
 REGISTRARS, TO BE CONSERVATORS OF PEACE, s. 31.

CONSTABLES TO ATTEND SITTINGS, s. 32.
 PERSONS ENTITLED TO BE PRESENT, ss. 33, 34.
 WHERE REGISTRAR OR CLERK FAILS TO ATTEND, s. 35.
 RIOTS AND EMERGENCIES PROVIDED FOR, ss. 36, 37.
 LISTS TO BE DELIVERED TO CLERK OF PEACE, ss. 38, 39.
 REGISTRATION FOR BY-ELECTION, WHEN NECESSARY, ss. 40, 41.
 LIST TO BE CONCLUSIVE, s. 42.
 COPIES TO BE FURNISHED, s. 43.
 BOOKS AND FORMS TO BE PREPARED BY CLERK OF PEACE, s. 44.
 TIMES LIMITED TO BE DIRECTORY, s. 45.
 OFFENCES AND PENALTIES, ss. 46-50.
 COMPENSATION OF OFFICERS, s. 51.
 COPIES OF CERTAIN ACTS TO BE SUPPLIED RETURNING OFFICERS, s. 52.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Manhood Suffrage Registration Act*" and shall apply to every city and county town which is an incorporated town and shall also apply to the Town of Niagara Falls. 58 V. c. 3, ss. 1, 2; 60 V. c. 14, ss. 40, 41, and 47 part. Short title and Application of Act.

INTERPRETATION.

2. "County Town" shall not for the purposes of this Act include a district town or an incorporated village. 60 V. c. 14, s. 41 part. "County town," meaning of.

NON-MUNICIPAL VOTERS NOT TO BE ON REVISED LISTS,

3.—(1) No assessor or assessment commissioner for any city or town to which this Act applies shall enter upon the assessment Names of manhood suffrage voters not to

be entered on
roll by
assessor.

roll the name of any person who is not liable to assessment for taxes, and the letters M. F. shall not be placed opposite the name of any person on the roll of any city or town aforesaid unless such person is qualified to vote at municipal elections in such city or town, as well as at elections for the Legislative Assembly. 57 V., c. 4, s. 2; 60 V. c. 14, s. 41.

Name not to
be entered
unless person
a voter at both
Municipal and
Assembly
elections.
Rev. Stats.
cc. 7 and 9.

(2) No person shall be named on a list of voters revised under *The Ontario Voters' List Act* for a city or town to which this Act applies by virtue of a qualification under *The Ontario Election Act*, unless such person is entitled to vote also at municipal elections and so much of the said *Voters' Lists Act* as requires the preparation of a list of persons entitled to vote at elections to the Legislative Assembly only, shall not apply to cities or towns to which this Act applies. 57 V., c. 4, s. 3.

WHO MAY BE REGISTERED.

Persons
entitled to be
registered.
Rev. Stat. c. 9.

4.—(1) Every male person of the full age of 21 years, a subject of Her Majesty by birth or naturalization, and not disqualified under *The Ontario Election Act*, and not otherwise by law prohibited from voting, shall be entitled to be entered on the list of manhood suffrage voters for the polling subdivision in which he resides, to be prepared as is hereinafter directed;

Proviso.

Provided that such person has resided within the Province for the twelve months next preceding the day on which the first sitting of the Registrars of manhood suffrage voters was held for the preparation of the lists as is hereinafter directed;

And provided that such person was in good faith, on the said last mentioned day, and for the three calendar months next preceding the same, a resident of and domiciled in the municipality on the list of which he is to be entered; and was in good faith on the said day and for the next preceding thirty days a resident of and domiciled within the territory comprising the electoral district on the list of which he is to be entered;

Rev. Stat. c. 7.

And provided also that such person's name is not on Part I of the revised list of voters for the electoral district as settled under *The Ontario Voters' Lists Act*, being the revised list which should be used at the election about to be held. 57 V. c. 4, s. 4 (1).

Registering
members of
permanent
militia corps.
C. S. C. c. 41.
C. S. C. c. 5.

(2) Members of a permanent militia corps enlisted for continuous service under section 28 of *The Militia Act*, shall be registered on furnishing evidence that they are entitled to registration under *The Electoral Franchise Act* of Canada and not otherwise. 58 V., c. 3, s. 4.

Registering
students.

(3) Students in attendance at any university, college, school or other institution of learning situated in any city or town to

which this Act applies who are, during such attendance, residents of and domiciled in such city or town, and who are not at the time of their application for registration under this Act, registered or entered upon and are not entitled to be registered or entered upon any other list of persons entitled to vote at elections for the Legislative Assembly, shall be entitled to be registered as manhood suffrage voters in such city or town, if otherwise qualified to vote therein. 58 V. c. 3, s. 6.

5.—(1) When any person who claims to be entitled to be registered or on whose behalf such claim is made, is unable to attend any of the sittings of the Registrars during the four days on which the same are held, or any of them, by reason

Registration
of absentees.

(a) Of sickness or other physical disability,

(b) Or, that he is necessarily temporarily absent from the city or town and from the county in which the city or town is situate, in the prosecution of his occupation as a lumberman, or mariner, or fisherman, or as a commercial traveller, or in the service of a railway company, or that he is absent from the city or town, in attendance as a student in an institution of learning in Canada,

a notice signed by such person or on his behalf by some grown up member of his family resident in the city, or if there is no such person then by some person to whom he is well known, may be given to the Registrar acting for that part of the Electoral District in which such person claims to be entitled to vote, in Form No. 6, at any time during the four days of the sittings of the said Registrars. The same notice shall not be for or on behalf of more than one person. Such persons may be known as Absentees Class A. "Mariner" in this section and wherever it occurs in this Act shall include the officers, sailors, engineers, cooks, stewards, waiters, deck hands and other persons employed upon any steamboat or sailing vessel during its navigation. 57 V. c. 4, s. 6 (1); 58 V. c. 3, s. 5.

"Mariner,"
meaning of.

(2) Where any absentee other than those included in Class A, claiming to be entitled to be registered, or any person on whose behalf such claim is made, is unable to attend any of the said sittings of the registrars during the said four days by reason of his being temporarily and unavoidably *bona fide* absent from the city or town and county in which the city or town is situate but within the Province of Ontario, in the necessary pursuit of his business or calling, and has not been absent more than thirty days prior to the first of the four days of the sittings of the Registrars, and is absent at the time of the application, and will not return during the said four days, then, if it be established by two witnesses, one of whom shall be a grown-up member of the absentee's family, or his employer, or business partner or person with whom he resides or last resided in the city or town, or if no such person exists, then

Voters tem-
porarily and
unavoidably
absent at time
of sittings.

by some person who knows the absentee, the Registrar may permit notice to be given to the Registrar acting for that part of the District in which such person claims to be entitled to vote, in Form 7, Class B, at any time during the four days of the sittings of the Registrars, of the intention of the absentee or of some person on his behalf, to apply for the entry of the name of the absentee upon the supplementary list of voters. When such notice is not signed by the absentee personally, it may be signed on his behalf by any person examined as a witness before the Registrar or by any other person having personal knowledge of the facts.

List of ab-
 sentees giving
 notice. (3) The Registrar shall keep an alphabetical list of the names of all persons giving such notices, or on whose behalf such notices are given, which shall be open to inspection.

Supplemen-
 tary sittings. (4) The board of registration shall appoint a time and places where the *ex-officio* Registrars for the division shall sit to hear the applications for registration by those persons who have given such notice or on whose behalf notice has been given, which time shall not be later than the day after the day of nomination, unless such day falls on Sunday and then not later than the day after, and such sittings shall not extend beyond two days and may be called the Supplementary Sittings.

When *ex-
 officio* regis-
 trars cannot
 act. (5) When the *ex-officio* Registrars cannot, by reason of being engaged on the Board of Appeal, or for other sufficient reason, hold both sittings, the Board of Registrars may select a sufficient number to fill the vacancies from among the other Registrars who have been acting to hold the supplementary sittings.

Hearing ap-
 plications at
 supplemen-
 tary sittings. (6) The Registrars who hold the supplementary sittings shall hear and determine the applications of such persons as have given notice, or on whose behalf notice has been given, as shall be brought before them. When the person claiming to be entitled to registration or upon whose behalf a notice has been given, hereinafter called "the applicant" shall personally appear and satisfy the Registrar that he had good and sufficient reason for his absence during the said four days, and that he is entitled to the benefit of this section, the application shall be determined in the like manner as though the applicant had appeared at the earlier sittings of the Registrars.

Where appli-
 cant cannot
 appear. (7) Where the applicant does not personally appear, for the reasons aforesaid, he may be registered upon its being established to the satisfaction of the registrar by the evidence of some member of the applicant's family, or his employer, business partner, or the person with whom he resides or last resided in the city or town, or other sufficient evidence that he cannot appear for some or one of the reasons aforesaid, and that he is entitled to be registered.

Inquiries at
 instance of
 Registrar (8) The Registrar may, if he sees fit, in cases where notice is given under the preceding subsections, for his own satisfaction, direct inquiry to be made by a person to be named by him.

(9) The Registrar shall enter in alphabetical order the names of all persons registered under the provisions of this section in a supplementary list of voters, and shall, the day after the last day of the supplementary sittings, deliver to the Clerk of the Peace the book in which the same are registered, having first appended thereto his certificate to the effect that the said supplementary list is a true and correct list of all persons who were shown to him to be entitled to be entered upon such supplementary list, and he shall state in such certificate the date of said supplementary sittings, and such list of names shall not be entered on the general list but shall be furnished to the returning officer as a supplementary list of manhood franchise voters.

Supplemen-
tary lists.

(10) The person applying, or on whose behalf application is made, shall, before being entered on the supplementary list, except in the case of mariners, fishermen and lumbermen, make the affidavit (Form 9), required in other cases, unless the registrar shall, for good and sufficient reason, dispense therewith.

Affidavit to
be made by
persons apply-
ing at supple-
mentary sit-
tings.

(11) The decision of the Registrar shall be final in the case of persons registered, or applying to be registered, at the supplementary sittings.

Decision of
registrar to be
final.

(12) Opposite the name of each person registered and entered on the supplementary list the Registrar shall write the words "Class A" or "Class B," as the case may be. 57 V. c. 4, s. 6, (2-12).

Entry after
name on sup-
plementary
lists.

6. Any person whose name is on Part I of the last revised Voters' List may, subject to other conditions of qualification, in case it is made to appear to the Registrar that he has ceased to be entitled to vote under said Part I, have his named transferred to the manhood suffrage list, and in such case his name shall be erased from Part I of the Voters' List by the Clerk of the Peace upon the certificate of the Registrar being furnished to him. The oath to be taken by such person on application for registration under this section shall be that contained in Form 10. 57 V. c. 4, s. 7.

Transfer of
voters from
Part I of
voters' lists.

BOARD OF REGISTRARS.

7.—(1) A Board shall be constituted in every city and town to which this Act applies for preparing lists of persons entitled under this Act to be registered as manhood suffrage voters at elections for the Legislative Assembly, and such board shall be called "The Board of Manhood Suffrage Registrars," and every member thereof shall be deemed a Registrar within the meaning of this Act.

Board of
registrars.

(2) No Registrar or registry clerk appointed under this Act who was engaged in the preparation of the Voters' Lists to be used at any election, shall be eligible as a candidate

at such election, nor shall any such Registrar vote at such election. 57 V. c. 4, s. 8.

Constitution of boards.

8.—(1) The Board shall consist of the official persons hereinafter mentioned, who may from time to time appoint so many other Registrars as shall be necessary to carry out the provisions of this Act. Such appointments may be evidenced by a commission (Form 1) under the hand of the Chairman of the Board.

Ex-officio
members of
board in
Toronto.

(2) In Toronto the *ex-officio* members shall be eight in number, namely, the three Judges of the County Court of the County of York, the Master in Ordinary, the Master in Chambers, the Master of Titles, the Police Magistrate of Toronto, and the Inspector of Legal Offices.

Hamilton.

(3) In Hamilton the *ex-officio* members shall be four in number, namely, the two Judges of the County Court of the County of Wentworth, the Police Magistrate and the Local Master of the High Court; and when there is but one Judge of the County Court of the County of Wentworth the Clerk of the County Court shall be *ex-officio* a member of the Board.

Ottawa.

(4) In Ottawa the *ex-officio* members shall be four in number, namely, the two Judges of the County Court of the County of Carleton, the Police Magistrate and the Clerk of the County Court.

In London.

(5) In London the *ex-officio* members shall be four in number, namely, the two Judges of the County Court of the County of Middlesex, the Police Magistrate and the Local Master of the High Court. 57 V. c. 4, ss. 10-14.

Ex-officio
members in
other cities.

(6) In every city other than those named in the four next preceding subsections the *ex-officio* members of the Board shall be the two Judges of the County Court, the Police Magistrate and the Local Master. Where either of the said Judges is Local Master, the Clerk of the County Court shall be the fourth member of the Board. Where there is but one County Court Judge the *ex-officio* members shall be the Judge, the Police Magistrate, the Local Master and the Clerk of the County Court, and where the Judge is Local Master then the Registrar of Deeds for the city shall be an *ex-officio* member, or if there is no such Registrar, the Registrar of Deeds having his office in the city shall be an *ex-officio* member of the Board. If any one of the said *ex-officio* members is unable to act from illness or any cause, then the other members of the Board shall appoint some fit and proper person to fill such vacancy. 60 V. c. 14, s. 45.

Boards of
registrars in
county towns.

(7) In the county towns to which this Act applies the Board of Registrars shall consist of the County Judge, the Police Magistrate and the Clerk of the County Court. Where there is no Police Magistrate, or where there is no Clerk of

the County Court, then the Registrar of Deeds having his office at the county town shall be an *ex-officio* member of the Board. Where one of the persons herein mentioned is unable to act from any cause, or refuses to act, the other two shall appoint some other person to the vacancy. 58 V. c. 3, s. 3; 60 V. c. 14, s. 46.

(8) In Niagara Falls the *ex-officio* members of the Board of Registrars shall be the Police Magistrate of the said town, the Clerk of the municipal council of the said town, and the Clerk of the Division Court of the division in which the town is situate; and they shall have the same power and authority as the Board of Registrars of a county town. 60 V. c. 14, s. 47. *Ex-officio members in Niagara Falls.*

9. The members appointed by the Board shall hold office until the first day of January after the first general election subsequent to their appointment. Any persons appointed to vacancies which may occur meanwhile shall hold office to the same date as the other appointed members. 57 V. c. 4, s. 16. *Term of office of appointed members.*

10. In case at the time of the dissolution of the Legislative Assembly or of the issuing of a writ of election, there is a vacancy in the *ex-officio* membership of the Board or if any of the members are absent from the Province or are unable to act, the Board shall appoint some competent person to fill the vacancy or to act in the place of the member so absent or unable to act. 57 V. c. 4, s. 17. *Vacancies.*

11. Every Registrar shall, before acting as such, take and subscribe before the chairman or a Justice of the Peace, the oath shown in Form 2 in the Schedule hereto. 57 V. c. 4, s. 18 part. *Oath of registrars.*

12. The Lieutenant-Governor in Council shall appoint one of the members of the Board to be Chairman thereof, *pro tem*, for the purpose of more conveniently carrying out the provisions of this Act, and the Board shall at their first or any subsequent meeting appoint a Chairman, who shall hold office during the pleasure of the Board. 57 V. c. 4, s. 19. *Chairman.*

13.—(1) It shall be the duty of the municipal corporation to provide for the Registrars, and each and every of them, and for the Board of Appeal, suitable and convenient places properly furnished, heated and lighted, for the holding of the sittings which are to be held under this Act; and in case the same are not provided in due time the Board is to provide the necessary accommodation, and the expense of the Board in so providing said places and furniture for the registration of voters shall not exceed \$15 for each place, unless the Board on account of exceptional circumstances finds it impossible to obtain suitable accommodation for this amount. The expense incurred by the Board in providing such accommodation and in providing

Municipality to provide necessary accommodation.

stationery and other requirements of the Board shall be paid by the treasurer of the corporation upon the order of the Chairman of the Board.

Registration
not to take
place in
tavern.

(2) The building in which the registration takes place shall not be a tavern or place of public entertainment, and there shall be free access for every person desiring to be registered. 57 V. c. 4, s. 9.

REGISTRATION DISTRICTS.

Two *ex-officio*
members to
act in each
district.

14. Where a city is divided into two or more electoral districts two of the *ex-officio* members of the Board shall be assigned by the Board to each of the electoral districts of the city as constituted for electoral purposes. 57 V, c. 4, s. 20.

Subdivision
of districts.

15.—(1) The Board shall divide each electoral district into convenient registration districts for the purpose of registration, grouping together for this purpose as compactly as they find convenient the polling subdivisions of each such district. The number of such registration districts shall be in Toronto six, in Hamilton, Ottawa, London and Kingston respectively, four, and in every other city three, and the Board shall assign a Registrar to each registration district, and shall also fix the time and place for holding the sittings of the Board of Appeal for the city provided for by this Act, and also of the supplementary sittings.

(2) If the Board considers that having regard to the number of voters to be registered the number of registration districts provided for by this section is not sufficient they may divide the electoral district, in manner aforesaid, into as many registration districts as the Board considers necessary, and shall appoint a place of registration and a Registrar for each as aforesaid. 57 V. c. 4, s. 21.

Registration
districts in
towns.

16. The Board may divide a town into as many registration districts for the purpose of registration as they may find convenient, but no such division shall be necessary unless the Board so orders. 60 V. c. 14, s. 42.

Places for
registration.

17. A place for each of the said registration districts shall be appointed for the registration of voters, the two places appointed for two adjoining registration districts being near one another, either in the same building or in some building conveniently near. 57 V. c. 4, s. 22.

Who to act at
place of regis-
tration.

18. At each of the said places an *ex-officio* Registrar, or appointed Registrar to be designated by the Board, shall attend for the purpose of registering voters. 57 V. c. 4, s. 23.

19. In case of the illness or absence of any Registrar, the Board shall appoint some other competent and impartial person to act as registrar in place of the Registrar who is ill or absent. 57 V. c. 4, s. 24.

Illness or
absence of
registrar.

PROCEEDINGS FOR REGISTRATION.

20.—(1) Immediately on a proclamation issuing dissolving the Legislative Assembly, or in the case of a by-election, immediately on the issuing of a writ of election, the Clerk of the Legislative Assembly in his capacity as Clerk of the Crown in Chancery, shall notify the Chairman of such dissolution or of the issuing of such writ; and whenever a new registration is required the Chairman shall call the Board together on receiving such notice, and the Board shall forthwith take the necessary proceedings for the registration of manhood suffrage voters under this Act.

When board
to be called to-
gether.

(2) In the case of a by-election the notice to the Chairman shall state whether or not a new registration is required. 57 V. c. 4, s. 25.

21.—(1) Every Registrar shall appoint (Form 3) a competent person as a clerk, hereinafter referred to as the "Registry Clerk," to assist him in preparing the lists of the persons entitled to vote in the subdivisions in respect of which such Registrar has been appointed. The Board shall appoint one of the Registry Clerks to be the Clerk of the Board. 57 V. c. 4, s. 26.

Registry
clerk.

(2) Every Registry Clerk so appointed shall, before acting as such, take and subscribe, before any Registrar or Justice of the Peace the oath shown in Form 4 in the said Schedule. 57 V. c. 4, s. 18 part.

Sittings of Registrars.

22. In cities the Registrars shall hold four sittings for the registration of persons claiming to be entitled to vote under this Act, the first of the said sittings being on the seventh day after the dissolution, or in the case of a by-election, on the seventh day after the date of the writ (computing in such time any Sunday that may have intervened), and if the seventh day falls on a Sunday the first of the said sittings shall be held on the following Monday. The same days shall be appointed for all the groups in an electoral district. 57 V. c. 4, s. 27 (1); 60 V. c. 14, s. 43.

Sittings of
registrars in
cities.

23. The said sittings shall be held on consecutive days, except Sunday, and shall continue from ten o'clock in the morning until nine o'clock in the evening, with intermissions from one o'clock to two o'clock and from six o'clock to half-past seven o'clock;

When to be
held.

Provided that if the holding of the sittings on consecutive days will not allow of one sitting being held on a Saturday, then the last sitting shall be held on a Saturday, and the second and third sittings shall be held on such days as the Board appoints ;

And provided further, that the time from half-past seven o'clock until half-past eight o'clock each evening of the said four days shall, as far as possible, be set apart for the registration of the votes of workingmen. 58 V. c. 3, s. 7.

Two sittings
in towns.

24. In towns it shall only be necessary to hold two sittings, but if the Board finds two sittings insufficient to complete the necessary work, they may direct such additional sittings not exceeding four, as may be necessary. The requirements as to sitting on Saturday and after six o'clock in the evening shall not apply to towns. 60 V. c. 14, s. 49.

Notice.

Notice of time
and places of
registration.

25. Public notice by the Chairman of the Board shall be given of the times and places so appointed and of the time and place for holding the meetings of the Board of Appeal and of the supplementary sittings, by posters headed in large letters, "Registration of Manhood Suffrage Voters." The said posters shall give the outside limits of each group of polling subdivisions for which the respective registration sittings will be held, but need not give the limits of the subdivisions. At least five of such posters shall be posted in public and conspicuous places throughout each polling subdivision. 57 V. c. 4, s. 28.

Books.

Index book to
be kept by
each registrar.

26.—(1) For the purpose of preparing such lists the chairman shall see that each Registrar is furnished with an alphabetical index book for each polling subdivision for which he is to act. The pages of said book shall be in accordance with Form 5 in the schedule hereto. Upon the first page thereof the limits comprising the polling subdivision for which the book is intended and the number of such polling subdivision, in accordance with the revised lists of voters, shall be stated, and such limits and number shall also be distinctly shown on the outside of the front cover.

Book of forms
of oaths.

(2) The Chairman shall also see that each Registrar is furnished with a book demy size containing six hundred forms or such further number as may appear necessary, of the oaths shown in Forms 9, and 10 in the schedule hereto, printed on good writing paper. 57 V. c. 4, s. 29.

Mode of registration.

27.—(1) The Registrar, or registry clerk under his direction, shall register in the several polling subdivision books, the names and residences, as stated in their oaths respectively, of all persons applying to be registered, who take either of the oaths hereinbefore mentioned, and who reside in such subdivisions respectively, unless it clearly appears to the Registrar from the answers of an applicant to the questions put to him and upon hearing any evidence then produced that he is not entitled to be registered as a voter. Each person entitled to be registered shall be registered in the book for the polling subdivision in which he resides, and no other.

Mode of registering names.

(2) The Registrar, or registry clerk under his direction, shall before administering the oath to any applicant for registration, fill up from the statements of the applicant the blanks for the name and other particulars required to be entered in the list of voters, and shall also fill up such other blanks as are necessary to be filled, in order to make the oath complete. He shall then administer the oath to the applicant and shall subscribe the same. 57 V. c. 4, s. 30 (1, 2).

Particulars to be entered in list.

(3) The Registrar or registry clerk may administer the oath to any number of persons not exceeding five at the same time, unless in any case objection is taken to his proceeding in this manner by any agent present, in which case the applicants shall be sworn separately. 60 V. c. 14, s. 50.

(4) The said names shall be classed in alphabetical order in accordance with the surnames of the applicants.

Arrangement of names.

(5) If an applicant refuses to take the oath, or refuses, or is unable to give the information requisite to enable the Registrar to fill up the particulars in respect of the said applicant and of his residence which by this section or by the notes at the foot of the form of oath are required to be inserted therein, such applicant shall not be registered either at that or any subsequent sitting. If such refusal or the discovery of the applicant's inability as aforesaid takes place after the applicant's name has been written in a form of oath, the returning officer shall write at the foot of said form "Refused to swear," or "Unable to give particulars," or according to the fact. 57 V. c. 4, s. 30 (3, 4).

Refusal to take the oath or give information.

(6) A list of all persons who refuse to take the oath, or are unable to give the information required as aforesaid shall be kept by the Registrar and delivered to the Clerk of the Peace with the list of persons registered. 57 V. c. 4, s. 30 (5); 60 V. c. 14, s. 52.

List of applicants refusing.

(7) At the end of each day, or at intervals available during the day, the Registrar and registry clerk shall, in the presence of those entitled to be present, compare the entries in the

Comparison of entries in books.

oaths book with the entries in the polling subdivision books, in order to see that no name has by mistake been entered in the wrong polling subdivision book, and may correct any mistake then discovered in any polling subdivision book. In case any name has, on this account, to be transferred from one book to another the entry so transferred shall be distinctly erased with pen and ink, but left legible; and a note shall be made immediately adjacent to such erasure to the effect that the name had been entered by mistake, and has been transferred to another subdivision book, and the number of such subdivision shall be stated. The Registrar and his clerk shall each affix their initials to the said note. 57 V. c. 4, s. 30 (6).

Note to be made of entries at each sitting.

(8) After the comparison is complete, and any necessary corrections made, there shall be written or stamped on the line immediately under the last name which has been entered under the letter A, the words, "End of first sitting." This shall be repeated at each letter under which names have been entered. If it should happen that there is some index letter under which no names have been entered during the sitting, the like words shall be written or stamped on the first line of the first page of every such letter. Similar entries, but naming the proper sitting, shall be made at the close of each sitting, and the Registrar shall sign the last of such entries under each index letter. 60 V. c. 14, s. 51.

Interference with books prohibited.

(9) No person except the Registrar or registry clerk shall be allowed to write upon or in any way meddle with the said books, and the Registrar shall keep the same in his custody until he delivers them to the Clerk of the Peace.

Entry to be made by registrar of oaths taken.

(10) At the close of each sitting the Registrar shall make and sign a memorandum immediately under the last oath administered stating that the preceding oaths signed by him were taken before him on that day, and giving the day of the month and year when said oaths were taken. 57 V. c. 4, s. 30 (8, 9).

APPEALS.

Appeals to board of appeal.

28.—(1) If the Registrar refuses to register an applicant who has taken or is willing to take the said oath, such applicant may upon giving within twenty-four hours thereafter notice in writing to the Registrar, appeal to the Board of Appeal constituted as provided in sub-section 2 of this section, which shall have authority to hear and determine all cases so brought before it upon *viva voce* evidence. The decision of the Board of Appeal shall be given at least three days before the day fixed for holding the poll, and its decision shall be final.

Board of appeal, how constituted.

(2) Where the Board of Manhood Suffrage Registrars consists of more than three members, the Board shall appoint three of its members to constitute the Board of Appeal for the city or town, and where the Board of Manhood Suffrage

Registrars consists of three members only such three members shall constitute the Board of Appeal. The members of the Board of Appeal shall before hearing any appeal elect one of their number to be chairman. The Board may if necessary constitute out of their number more than one Board of Appeal.

(3) The evidence taken on any appeal under this section shall be taken on oath, and such oath may be administered by any member of the Board of Appeal. Taking evidence on oath.

(4) If the Board of Appeal shall decide that an appellant is entitled to vote they shall grant him a certificate signed by the chairman of such Board to that effect, and shall in such certificate state the polling subdivision in which he is entitled to vote, and the deputy-returning officer for such polling subdivision if such person delivers to him the said certificate and, if required, takes the oath contained in Form 17 of *The Ontario Election Act* shall permit such person to vote. 57 V. c. 4, s. 31 (1-4). Certificate to be given when appellant found entitled to vote. Rev. Stat. c. 9.

(5) An appeal shall also lie in like manner and on the like notice, and a further notice to the person registered, from the decision of a Registrar registering the name of any applicant, provided that the decision is given within the time above limited; and a certificate of such decision shall be given by the Chairman of the Board of Appeal to the Returning Officer of the Electoral Division in which the decision appealed against was given, and shall be by him delivered to the deputy-returning officer of the polling subdivision named in the certificate, and such deputy-returning officer shall not thereafter receive the vote of such person. 57 V. c. 4, s. 31 (6). Appeal from decision of registrar to register any name.

29.—(1) Any person may obtain from the Chairman of the Board an order (Form 8) requiring the attendance at the Board of Appeal for hearing appeals as aforesaid, at the time mentioned in the order, of a witness residing or served with the order in any part of this Province; and requiring the witness to bring with him and produce at the hearing of the appeal any papers or documents mentioned in the order, and every witness served with the order shall obey the same, provided the allowance for his expenses, according to the scale allowed in Division Courts, is tendered to him at the time of service. Securing attendance of witnesses.

(2) Any person appealing, or any person in respect of the registration or omission of whose name a notice of appeal is given, shall, if resident within the registration district, upon being served with an order therein, obey the same without being tendered or paid any allowance for his expenses; and the order shall be deemed to have been sufficiently served upon any such person under the provisions of this section

(a) If the order is served upon him personally; or

(b) Where he has a known residence or place of business within the municipality, if a copy of the order is left for him with some grown person at such residence or place of business ; or

(c) Where he has no known residence or place of business within the municipality, if a copy of the order is mailed to him through the post office, with the postage thereon prepaid, and addressed to him at the address contained in any affirmation or affidavit made by him under this Act.

Persons may be struck off for non-attendance, etc.

(3) If a person, whose right to be a voter is the subject of enquiry, does not attend in obedience to the order, the Board in the absence of satisfactory evidence as to the reason of his non-attendance, or as to his right to be a voter, may, on the ground of his non-attendance, strike his name off the list of voters, or refuse to enter his name on the list of voters, as the case may require, or may impose on him a fine not exceeding \$20, or may do both.

(4) Any number of names may be inserted in one order, in any case of complaint. 60 V. c. 14, s. 44.

Lists of persons found entitled on appeal.

30.—(1) The Board of Appeal shall make and shall deliver to the Clerk of the Peace a list of the names of persons, together with their occupation and residence and the subdivision in which they may vote, to whom the Board of Appeal shall have given certificates, upon which such persons shall be entitled to vote, and the said names shall also be entered upon the supplementary list with the words written thereafter, "on appeal."

List of names struck off on appeal.

(2) The Board of Appeal shall also make and shall deliver to the Clerk of the Peace a list of the names of those whom they shall strike off the list, with the subdivisions for which they were respectively registered, and the Returning Officer shall forthwith cause the deputy-returning officer to erase such names from the list. The words "on appeal" shall be written after such erasure. 57 V. c. 4, s. 31 (7, 8).

PRESERVATION OF THE PEACE.

Preservation of the peace.

31. Every Registrar shall, during the days such sittings are held, be a conservator of the peace and invested with the same powers with which justices of the peace are invested in this Province, and may appoint such special constables as he deems necessary for the purpose of carrying out the provisions of this Act, or for the arrest or detention of persons who are charged with personation or who are or have been impeding or improperly interrupting his proceedings or creating a disturbance. The Registrar may verbally direct the forcible removal of any such person from the registry room. Such special constables shall have full power to act without taking any oath and shall be respectively paid by the municipality.

Special constables.

Each registry clerk shall also have the authority of a constable for the said purposes. 57 V. c. 4, s. 32.

32. It shall be the duty of the Chief of Police of the city or town to have a constable in attendance at each place of registry during the whole time that the same is kept open and so long as the Registrar remains there. 57 V. c. 4, s. 33.

WHO ENTITLED TO BE PRESENT AT SITTINGS.

33.—(1) Any person whom the Board deems to be in good faith a candidate for election to represent the said district, may appoint in writing two electors as agents to represent him at any registration sitting. In the absence of any person authorized in writing to act as agent for an absent candidate, any elector in the interest of such candidate may declare himself to be and may act as agent of such candidate, without producing any special authority in writing for that purpose.

Agents for
candidates.

(2) Any political organization not represented by such candidate and his agents, may also appoint in writing, duly authenticated to the satisfaction of the Registrar, two electors as agents to represent such organization at any registration sitting. 57 V. c. 4, s. 34.

Agents of
political
organizations.

34. Subject to such directions as the registrar may from time to time give so as to prevent the proceedings being delayed or interfered with, any elector shall be entitled to be present as a spectator at a registration sitting, provided that no more than twelve persons other than the officers and agents shall be entitled to be present at the same time, and no person shall ask any question of an applicant for registration unless such person is the agent of a candidate, and no agent shall ask any such question except through the Registrar, or by his permission. The Registrar in giving directions shall strive to allow a fair proportion of all political parties to remain in the place of registration. 57 V. c. 4, s. 35.

Presence of
electors at
registration.

EMERGENCIES PROVIDED FOR.

35.—(1) If a Registrar refuses or neglects to perform the duties of his office, or becomes unable to perform them either by death, illness, absence or otherwise, and if no other Registrar appears at the place appointed for the registry sitting, then the registry clerk shall act as Registrar and perform all the duties and be subject to all the obligations of that office in the same manner as if he had been duly appointed Registrar and without being bound to take a new oath for that purpose.

Refusal or
neglect of
registrar to
act.

(2) When any registry clerk acts as Registrar under this section he shall in writing appoint (Form 3) another person to act as registry clerk, and the person so appointed shall

before acting take and subscribe before the person appointing him the oath shown in Form 4 in the schedule.

Registry clerk refusing or neglecting to act.

(3) When any registry clerk refuses or neglects or becomes unable to perform his duty, the Registrar may in writing appoint another person to act as registry clerk: and the person so appointed shall before acting take and subscribe before such Registrar the said oath shown in Form 4. 57 V. c. 4, s. 36.

Failure to commence at appointed time.—Interruptions to sittings.

36. In case by reason of riot or other emergency a sitting of the Registrar is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, the Registrar shall hold or resume the registration on the following day at the hour of nine o'clock in the forenoon, and continue the same from day to day, if necessary, until the place for registration has been opened without interruption and with free access to persons desiring to be registered, for forty-four hours in all, but the registration shall be completed at least three days before the polling day. 57 V. c. 4, s. 37.

When place appointed cannot be used.

37. In case for any reason it becomes impossible to use the place appointed for the registration of voters, another place shall be secured by the Registrar, and such notice of the change as is practicable shall be given. 57 V. c. 4, s. 38.

DELIVERY OF LISTS TO CLERK OF THE PEACE.

Delivery of lists to clerk of the peace.

38.—(1) The next day, not being a Sunday, after the last of said sittings, the Registrar shall deliver to the clerk of the peace the books containing the said lists, having first appended to each his certificate to the effect that the said list is a true and correct list of all persons who appeared before him at the sittings for the registration of persons entitled to vote under this Act and took the oath necessary to entitle them to have their names placed thereon, and he shall in such certificate state the dates of such sittings. The Registrar shall at the same time deliver to the Clerk of the Peace the book containing the oaths of the persons registered.

(2) The delivery of the lists to the Clerk of the Peace shall not be delayed by reason of appeals from the decision of any Registrar. 57 V. c. 4, s. 39.

Duties of clerk of the peace as to books.

39.—(1) It shall be the duty of the Clerk of the Peace to see that the said books are duly returned to him as required by the next preceding section.

(2) The Clerk of the Peace shall retain the said books in his office until they are superseded by another registration, when they may be destroyed, unless the Attorney-General of Ontario or a Court shall direct their preservation for a further period. 57 V. c. 4, s. 40.

BY-ELECTIONS.

40.—(1) In case of a by-election, the writ for which bears date more than one year subsequent to the polling day of a previous election for which registration sittings were held for the electoral district, the proceedings for registration hereinbefore directed in the case of a general election shall be taken unless the Clerk of the Crown in Chancery shall, on the issue of the writ, notify the chairman of the Board of Registrars that a new registration of the manhood suffrage voters of the electoral district is not required.

Special elections more than one year after last registration.

(2) The Clerk of the Crown in Chancery shall make the said notification as to a new registration not being necessary in case the Premier of the Executive Council of Ontario and the leader of the opposition in the Legislative Assembly certify the clerk in writing that in their opinion a new registration as aforesaid is unnecessary for such election. 57 V. c. 4, s. 41.

41.—(1) In case of a by-election the writ for which bears date not more than a year subsequent to the polling day of the next previous election for which registration was made for the electoral district, no new registration of manhood suffrage voters shall be had unless the Clerk of the Crown in Chancery shall notify the said chairman that a new registration as aforesaid is desired.

When special election held less than one year after registration.

(2) The Clerk of the Crown in Chancery shall make such last mentioned notification upon the written request of either the Premier of the Executive Council or of the leader of the opposition. 57 V. c. 4, s. 42.

LIST TO BE CONCLUSIVE.

42. Every Voters' List under this Act shall be final and conclusive as to the manhood suffrage voters in the same manner as the Voters' List certified by the County Court Judge. 57 V. c. 4, s. 43 (5).

Voters' lists conclusive.

COPIES TO BE FURNISHED.

43. The Clerk of the Peace shall furnish certified copies of the names and other particulars in any of the said subdivision books, to any person who may require the same, upon payment of the like fees as are prescribed for similar services by subsection 1 of section 50 of *The Ontario Voters' List Act*. 57 V. c. 4, s. 43 (7).

Clerk of the peace to furnish copies.

Rev. Stat. c. 7.

BOOKS AND FORMS.

44.—(1) The Clerk of the Peace shall from time to time cause to be prepared such books and forms as are requisite for

Preparation of forms and books.

the purposes of this Act, so that he may at all times have on hand a sufficient number for an election, and shall have such books and forms prepared and printed in such a manner that the blanks remaining therein requiring to be filled up shall be as few as is practicable, and he shall furnish such number of the said books and forms to the Registrars as the Chairman shall request. The books and forms to be prepared and kept hereunder are the following :—

Oaths of Registrars.

Appointment of Registrars otherwise than by this Act.

Appointments and oaths of registry clerks.

Books containing forms of oaths to be taken by applicants for registration.

Alphabetical index books for the registration of manhood suffrage voters.

Books for lists of persons refusing to take the oath or unable to give the particulars required.

Fees of clerk of the peace.

(2) For his services under this section in respect of each election the said Clerk of the Peace shall be paid by the municipality the sum of \$10 and his disbursements. 57 V. c. 4, s. 44. 60 V. c. 14, s. 52.

MISTAKE OR MISCARRIAGE.

Times mentioned in this Act directory.

45. The times limited by this Act shall be directory only and any mistake or miscarriage in respect thereof shall not invalidate an election, unless the mistake or miscarriage has been of such a nature that in the opinion of the trial judge it may have affected the result of the election, but this shall not prevent the trial being avoided where the mistake or miscarriage was brought about either in whole or in part by the improper conduct of a candidate or his agent. 57 V. c. 4, s. 45.

OFFENCES AND PENALTIES.

Penalty for personation.

46. Every person who applies under this Act to be registered in the name of some other person, whether such name be that of a person living or dead, or of a fictitious person, or who having been once registered under this Act in an electoral district applies within twenty-nine days thereafter to be again registered, either in the same or in another electoral district, shall be guilty of the offence of personation and liable to the penalties imposed by *The Ontario Election Act*, upon persons guilty of the said offence. 57 V. c. 4, s. 46.

Rev. Stat. c. 9.

Penalty for injuring, etc., books, etc.
Rev. Stat. c. 9.

47. Section 192 of *The Ontario Election Act* shall extend to any book, list, certificate, oath, affidavit or other document made, prepared or drawn out according to or for the purpose of meeting the requirements of this Act or any of them. 57 V. c. 4, s. 47.

48. Any person appointed a Registrar or registry clerk who refuses to accept the office to which he has been appointed or who, after having accepted the same, refuses or neglects either to take and subscribe the prescribed oath or to perform the duties of the office shall, for his neglect or refusal, if appointed a Registrar, incur a penalty of \$100, and if appointed a registry clerk, a penalty of \$50. 57 V. c. 4, s. 48.

Penalty for refusing to act as registrar or registry clerk.

49. Every Registrar or registry clerk who is guilty of any wilful misfeasance or any wilful act or omission in contravention of this Act shall forfeit to Her Majesty the sum of \$200, and to any person aggrieved by such misfeasance, act or omission, a like sum of \$200. 57 V. c. 4, s. 49.

Penalty for misconduct.

50. Any commissioner for taking affidavits, notary public or justice of the peace, who falsely signs any affidavit or declaration to be used under this Act, certifying or stating that such affidavit or declaration was sworn to or declared before him, or who signs it prior to the same being signed by the person purporting to swear or declare to the same or otherwise than in the presence of the deponent or declarant, shall, in addition to forfeiting his office of commissioner, notary public or justice of the peace, for every offence be subject to a penalty of not less than \$50 and not more than \$200, and to imprisonment for any period not exceeding three months. Such penalty may be recovered and such imprisonment ordered by the Police Magistrate of the city or county town in which the affidavit or declaration is used or where the offence was committed. 57 V. c. 4, s. 50.

Penalty for falsely signing affidavits or declarations.

COMPENSATION OF OFFICERS.

51. For their services under this Act the officers employed shall be entitled to be paid as follows:—Each *ex-officio* Registrar \$5 for each day on which a sitting for registration was held; every other Registrar \$7; each registry clerk \$3 for each day aforesaid; such sums to be paid by the city. The chairman shall be paid a further sum of \$10 for his services hereunder for each election, such sum to be paid by the Province. 57 V. c. 4, s. 51.

Fees of officers

COPIES OF ACTS TO BE SENT RETURNING OFFICER.

52. When an election at which the vote of the electors in any of the municipalities to which this Act applies has to be taken is to be held, there shall be transmitted to the returning officer with the writ of election such a number of copies of this Act and of *The Act to secure the prompt punishment of persons guilty of personation at elections for the Legislative Assembly*, and of any amendments which may be made to the said Acts, with full indexes thereto, as will be sufficient to supply the returning officer and every Registrar and registry clerk with one copy

Copies of Acts to be transmitted with writ.

Rev. Stat. c. 10.

at least, and there shall be transmitted at the same time to the said returning officer such an additional number of the said last mentioned Act, and any amendments thereto as will be sufficient to also supply each deputy returning officer with one copy thereof, at least. 57 V. c. 4, s. 52. 60 V. c. 14, s. 48.

SCHEDULE OF FORMS.

FORM 1.

(Section 8.)

COMMISSION OF REGISTRAR OF MANHOOD SUFFRAGE VOTERS.

To K. L. (*Insert his residence and legal addition.*)

Know you that under the provisions of *The Manhood Suffrage Registration Act* of the Legislature of Ontario, you have been appointed a Registrar by the Board of Manhood Suffrage Registrars for the City of

Given under my hand at the City of this day of
1894.

A. B.,

Chairman.

57 V., c. 4, Form 1.

FORM 2.

(Section 11.)

OATH OF REGISTRAR.

I the undersigned, Registrar of Manhood Suffrage Voters for part of the Electoral District of the City of , solemnly swear (or if the Registrar is one of the persons permitted by law to affirm in civil cases solemnly affirm) that I will act faithfully in my said capacity of Registrar without partiality, fear, favour or affection. So help me God.

Sworn, etc.

K. L.,

Registrar.

57 V., c. 4, Form 2

FORM 3.

(Sections 21, 35.)

COMMISSION OF REGISTRY CLERK.

To M. N. (*Insert his residence and legal addition.*)

Know you that in my capacity of Registrar of Manhood Suffrage Voters for the group of polling subdivisions composed of polling subdivisions Nos. 1, 2, 3, 4 and 5 of the Electoral District of the City of I do hereby appoint you to be Registry Clerk for the said polling subdivisions.

Given under my hand at the City of this day of
1894.

K. L.,

Registrar.

57 V., c. 4, Form 3.

FORM 4.

(Referred to in Sections 21, 35.)

OATH OF REGISTRY CLERK.

I the undersigned, appointed Registry Clerk of Manhood Suffrage Voters for part of the Electoral District of the City of _____ solemnly swear (or if the Clerk is one of the persons permitted by law to affirm in civil cases solemnly affirm) that I will act faithfully in my capacity of Registry Clerk; and also in that of Registrar of Manhood Suffrage Voters if required to act as such according to law, without partiality, fear, favour or affection. So help me God.

Sworn, etc.

M. N.,

Registry Clerk.

57 V. c. 4, Form 4.

FORM 5.

(Section 26.)

FORM OF INDEX BOOK FOR VOTERS' LIST.

(First page.)

ELECTORAL DISTRICT OF THE CITY OF OTTAWA.

Manhood Suffrage Voters' List for Elections to Legislative Assembly.

POLLING SUBDIVISION No. 5.

Comprising *(Giving the limits.)*

NAME.	NUMBER OF HOUSE.	STREET OR OTHER DESCRIPTION.	OCCUPATION.

(Form for second and subsequent pages.)

Continuation of POLLING SUBDIVISION No. 5.

NAME.	NUMBER OF HOUSE.	STREET OR OTHER DESCRIPTION.	OCCUPATION.

57 V. c. 4, Form 5.

FORM 6.

(Section 5.)

NOTICE BY ABSENTEE. CLASS "A."

To the Registrar of the Electoral District of
 Take notice that I (*name in full*) of No. _____ in
 Street, in the City of _____, claim to be entitled to registry
 as a voter in the said Electoral District under *The Manhood Suffrage
 Registration Act*.

That my place of residence is at No. (a) _____ Street, in the
 said City ;

That I am by occupation a (b) _____

That I am (*sick, disabled or absent*) (c) _____

That I am entitled to be registered and to become a voter in and
 for said electoral district.

Dated this _____ day of _____ 189 _____, at the
 city of _____

(Signed) *John Walker.* (d)

NOTE.—(a) Insert here the street, place, avenue or lane, and number of house
 where applicant resides. If the street, place, avenue or lane is not named, or the
 house has no number, then insert a brief description that will define its locality.

(b) Here state occupation.

(c) If sick or disabled, state the cause and character of the sickness or disability ;
 if absent, state the reason.

(d) If given by some person on applicant's behalf, change "I am," etc., into
 "he is," etc.

57 V. c. 4, Form 6.

FORM 7.

(Section 5.)

NOTICE BY ABSENTEE. CLASS "B."

To the Registrar of the Electoral District of
 Take notice that I (*name in full*) of No. _____ in
 Street, in the City of _____, claim to be entitled to registry in
 the said Electoral District under *The Manhood Suffrage Registration
 Act*.

That my place of residence is at No. (a) _____ Street, in the
 said City ;

That I am by occupation a (b) _____

That I am now and have been temporarily and necessarily absent
 from the City of _____, my place of residence, since
 the _____ day of _____ 189 _____ and not longer, in the
 pursuit of my usual calling or occupation ;

That I am entitled to be registered and to become a voter in and
 for the said electoral district.

Dated this _____ day of _____ 189 _____, at the
 City of _____

(Signed) *John Walker.* (c)

NOTE.—(a) Insert here the street, place, avenue or lane, and number of house
 where applicant resides. If the street, place, avenue or lane is not named, or the
 house has no number, then insert a brief description that will define its locality.

(b) Here state occupation.

(c) If given by some person on applicant's behalf, change "I am," etc., into
 "he is," etc.

57 V. c. 4, Form 7.

FORM 8.

(Section 29).

ORDER FOR ATTENDANCE BEFORE BOARD OF APPEAL.

ONTARIO: } In the matter of _____ with respect to
 County of _____ } whom an appeal is entered before the Board of
 To Wit. } Appeal for the city (or town) of _____
 To _____

Greeting :

You are required to appear in your proper person before the Board of Appeal for the city (or town) of _____, at _____, on the _____ day of _____, 18____, at _____ o'clock in the _____ noon, at a meeting of the Board appointed, and there and then to be held for hearing appeals in respect of the registration of voters from the municipality of _____ of _____, in the County of _____, then and there to testify to all and singular those things which you know in the above matter of appeal made and now depending before the said Board, under *The Manhood Suffrage Registration Act*, wherein one _____ is appellant, and which appeal is to be tried at the said meeting of the Board, and so from day to day until the said appeal is heard. Herein fail not.

Dated at _____

this _____ day of _____,

A.D. 18 ____.

A. B.,
 Chairman.

60 V. c. 14, s. 53, Form 7 A.

FORM 9.

(Referred to in Section 26.)

FORM OF OATH TO BE TAKEN BY MANHOOD SUFFRAGE VOTER APPLYING FOR REGISTRATION IN THE DISTRICT WHERE HE RESIDES.

1. You swear (a) that your name is (b) _____ and that you are a (c) _____
2. That you are a British subject by birth or naturalization.
3. That you had resided within this Province for the twelve months next preceding (d) the _____ day of _____ 18 (e) _____
4. That you are now and were on the said day and for the three months next preceding the same a resident of and domiciled in this municipality.
5. That you are now and were on the said day and for the thirty days next preceding the same a resident of and domiciled in the territory comprising this electoral district.
6. That you now reside at (f) _____

7. That you are not disqualified or prohibited from voting at this election and are as you believe entitled to vote thereat.

8. That you are of the full age of 21 years.

9. That you are not entered on the revised list of voters to be used at this election as entitled to vote at both municipal elections and elections to the Legislative Assembly.

10. That you have not been registered within twenty-nine days of this date, either at this or any other sitting held for the Registration of Manhood Suffrage Voters for Elections to the Legislative Assembly, either in this or any other electoral district.

11. That you have not received anything, nor has anything been promised you either directly or indirectly, either to induce you to promise to vote or to apply for registration as a voter or for loss of time, travelling expenses, hire of team or any other service connected therewith. So help you God.

K. L.

NOTE.—(a) If the applicant is a person who may by law affirm in civil cases, then for "swear" substitute "solemnly affirm."

(b) Insert here the full name of applicant.

(c) Insert here occupation of applicant, or if applicant has no occupation, state the fact.

(d) Insert here the date of the FIRST sitting held for the registration of voters.

(e) In case the voter has been temporarily absent for any of the purposes allowed by law insert the words following, "except occasionally or temporarily, in the prosecution of your occupation of (mentioning, as the case may be, a lumberman or mariner or fisherman or in attendance as a student in an institution of learning in the Dominion of Canada, naming the institution.)"

(f) Insert here the street and number of the house where applicant resides if it has a street number, and if it has not then insert instead a brief description that will define its locality.

57 V. c. 4, Form 8.

FORM 10.

(Referred to in Sections 6 and 26.)

FORM OF OATH TO BE TAKEN BY MANHOOD SUFFRAGE VOTER ON APPLYING FOR REGISTRATION UNDER SECTION 6.

1. You swear (a) that your name is (b)
and that you are a (c)

2. That you are a British subject by birth or naturalization.

3. That you had resided within this Province for the twelve months next preceding (d) the day of 18 (e)

4. That you are now and were on the said day and for the three months next preceding the same a resident of and domiciled in this city (or town).

5. That you are now and were on the said day and for thirty days next preceding the same a resident of and domiciled in the territory comprising this electoral district.

6. That you now reside at (f)

7. That you are not disqualified or prohibited from voting at this election and are as you believe entitled to vote thereat.

8. That you are of the full age of 21 years.

9. That your name is entered on the revised voters' list to be used at this election as entitled to vote at both municipal elections and elections to the Legislative Assembly, but that you are not now entitled to vote at this election in respect of that qualification.

10. That you have not been registered within twenty-nine days of this date, either at this or any other sitting held for the Registration of Manhood Suffrage Voters for Elections to the Legislative Assembly, either in this or any other electoral district.

11. That you have not received anything, nor has anything been promised you either directly or indirectly, either to induce you to promise to vote or to apply for registration as a voter or for loss of time, travelling expenses, hire of team or any other service connected therewith. So help you God.

K. L.

NOTE.—(a) If the applicant is a person who may by law affirm in civil cases, then for "swear" substitute "solemnly affirm."

(b) Insert here the full name of applicant.

(c) Insert here occupation of applicant, or if applicant has no occupation, state the fact.

(d) Insert here the date of the FIRST sitting held for the registration of voters.

(e) In case the voter has been temporarily absent for any of the purposes allowed by law, insert the words following, "except occasionally or temporarily, in the prosecution of your occupation, (*mentioning, as the case may be, a lumberman or mariner or fisherman or in attendance as a student in an institution of learning in the Dominion of Canada, naming the institution.*)"

(f) Insert here the street and number of the house where applicant resides if it has a street number, and if it has not then insert instead a brief description that will define its locality.

57 V. c. 4, Form 9.

CHAPTER 9.

An Act respecting Elections of Members of the
Legislative Assembly.

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 INTERPRETATION, s. 2.
 QUALIFICATION OF MEMBERS, s. 3.
 QUALIFICATION OF VOTERS, ss. 4-15.
 POLLING SUBDIVISIONS, ss. 16-18.
 RETURNING OFFICERS, ss. 19-26.
 GENERAL ELECTIONS, TIME OF POLLING, ETC., ss. 27-30.
 NOTICE AS TO SECRECY, s. 31.
 ISSUE OF WRIT, s. 32.
 BLANK POLL-BOOKS TO BE SUPPLIED, s. 33.
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 Procuring ballot boxes, s. 45.
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 Appointment, etc., of Election Clerk, and oath, ss. 47-52.
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Election Act.*" Short title. 55 V. c. 3, s. 1.

INTERPRETATION.

2. Where the words following occur in this Act, or in the schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

1. "Local municipality" shall mean and include a city, town, incorporated village or township, as the case may be. "Local Municipality."

2. "Election" shall mean an election of a member to serve in the Legislative Assembly. "Election."

"To vote." 3. "To vote" shall mean to vote at the election of a member of the Legislative Assembly.

"Electoral district." 4. "Electoral district" shall mean a county or other place or portion of this Province, entitled to return a member to the Legislative Assembly.

"Voters' list" 5. "Voters' List" and "list of voters" shall mean the list of voters in the poll book furnished in accordance with section 60 of this Act, unless the context shows that the original list is referred to.

"Last revised assessment roll." 6. "Last revised assessment roll" shall mean the last revised assessment roll of a city, town, incorporated village or township.

"Corrupt practice." 7. "Corrupt practices," or "corrupt practice," shall mean bribery, treating and undue influence, or any of such offences as defined by this or any Act of the Legislature, or recognized by the Common Law of the Parliament of Great Britain and Ireland; also a violation of sections 161, 165, or 167 of this Act, and a violation of section 170 of this Act during the hours appointed for polling.

"Candidate." 8. "Candidate at an election" and "candidate" shall mean a person elected at an election to serve in the Legislative Assembly, and a person who is nominated as a candidate at such election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for such election, or after the dissolution or vacancy in consequence of which the writ has been issued; Provided that where a person has been nominated as a candidate, or declared to be a candidate by others, then—

(a) If he was so nominated or declared without his consent, nothing in this Act shall be construed to impose any liability on such person, unless he has afterwards given his assent to his nomination or declaration or has been elected. 55 V., c. 3, s. 2.

QUALIFICATION OF MEMBERS.

No property qualification for members. 3. No qualification in real estate shall be required of a candidate for a seat in the Legislative Assembly. 55 V. c. 3, s. 3.

QUALIFICATION OF VOTERS.

Who shall not Vote.

4.—(1) Judges of the Supreme Court of Canada, Judges of the Supreme Court of Judicature for Ontario, Judges of the Exchequer Court of Canada, County Court Judges, Officers of the Customs of the Dominion of Canada, Clerks of the Peace, County Crown Attorneys, Registrars, Sheriffs, Deputy Sheriffs, Deputy Clerks of the Crown, and Agents for the sale of Crown Lands, Postmasters in cities and towns, Stipendiary Magistrates, Police Magistrates in cities having a population of over 30,000, and Officers employed in the collection of duties payable to Her Majesty in the nature of duties of excise, shall be disqualified and incompetent to vote at any election ;

(2) If a public officer or person mentioned in this section votes at an election, he shall thereby forfeit the sum of \$2,000, and his vote at the election shall be null and void. 55 V. c. 3, s. 4 ; 57 V. c. 28, s. 2. 60 V. c. 15, Sched. A. (47).

5. Subject to the provisions of this Act no person shall be entitled to vote at any election unless his name is on the voters' list as certified under *The Ontario Voters' Lists Act*, or prepared under *The Manhood Suffrage Registration Act*. 55 V. c. 3, s. 4a ; see also 57 V. c. 4, ss. 5, 43.

6.—(1) No Returning Officer or Election Clerk, and no person who, at any time, either during the election or before the election, is or has been employed at the election or in reference thereto, or for the purpose of forwarding the same, by a candidate or by any person whomsoever, as counsel, agent, solicitor, or clerk, at a polling place at the election, or in any other capacity whatever, and who has received or expects to receive, either before, during or after the said election, from any candidate or from any person whomsoever, for acting in such capacity as aforesaid, any sum of money, fee, office, place of employment, or any promise, pledge or security whatever therefor, shall be entitled to vote at the election ; but this provision shall not affect the right of the returning officer to give a casting vote under section 123.

(2) The preceding provision shall not apply to Deputy-Returning Officers and Poll Clerks appointed under this Act and receiving as such the fees to which officers are entitled under this Act. 55 V. c. 3, s. 5.

(3) No woman shall be entitled to vote at an election under this Act. 55 V. c. 3, s. 6a.

7. No person shall be entitled to be marked by the assessor as qualified, or shall be entered on a list of voters, or shall vote, who at the time of marking or entering or voting (as the

Persons disqualified from voting.

Penalty.

Voters' name must appear on certified lists. Rev. Stats., co. 7 and 8.

Certain officers and persons not to vote.

Women not to vote.

Disqualifications.

case may be) is a prisoner in a gaol or prison undergoing punishment for a criminal offence; or is a patient in a lunatic asylum; or is maintained, in whole or in part, as an inmate receiving charitable support or care in a municipal poor house or house of industry, or as an inmate receiving charitable support or care in a charitable institution receiving aid from the Province under any statute in that behalf. 55 V. c. 3, s. 6.

WHO MAY VOTE.

When entered on Revised Voters' List of a Municipality.

Who may
vote at an elec-
tion.

8. Subject to the provisions of this Act every male person of the full age of twenty-one years, a subject of Her Majesty by birth or naturalization, and not disqualified under this Act, and not otherwise by law prohibited from voting, shall, if duly entered in the list of voters proper to be used, be entitled to vote at elections to serve in the Legislative Assembly of this Province:—

Proviso.

Provided that such person had resided within the Province for the nine months next preceding the time fixed by statute (or by a by-law authorized by statute) for beginning to make the assessment roll in which he is entitled to be entered as a person qualified to vote, or had so resided within the Province for the twelve months next preceding the time up to which a complaint might have been made to the County Judge or other officer who revised the list, under *The Voters' Lists Act*, to insert the name of such person in the list:—

Rev. Stat.,
c. 7.

Proviso.

And provided that such person was in good faith at the time fixed as aforesaid for beginning to make said roll, or for making such complaint, as the case may be, a resident, of and domiciled in, the municipality in the list of which he is entered, and is, at the time of tendering his vote, a resident of, and domiciled within, the electoral district, and had resided in the said electoral district continuously from the time fixed as aforesaid for beginning to make said roll or for making such complaint, as the case may be. 55 V. c. 3, s. 7 (1). [*See sec. 77*].

When entered on Voters' Lists prepared under "The Manhood Suffrage Registration Act."

Qualification
of voters.

9. Subject to the provisions of this Act, every male person of the full age of 21 years, a subject of Her Majesty by birth or naturalization, and not disqualified under this Act, and not otherwise by law prohibited from voting, shall, if duly entered on the list of voters prepared under *The Manhood Suffrage Registration Act* proper to be used, also be entitled to vote at such elections;

Rev. Stat.,
c. 8.

Proviso.

Provided that such person has resided within the Province for the twelve months next preceding the day on which the

first sitting of the registrars of manhood suffrage voters was held for the preparation of the lists of voters under *The Manhood Suffrage Registration Act*; Rev. Stat.,
c. 8.

And provided that such person was in good faith, on the said last mentioned day, and for the three calendar months next preceding the same, a resident of and domiciled in the city on the list of which he is entered; and was in good faith on the said day and for the next preceding thirty days a resident of and domiciled within the territory comprising the electoral district on the list of which he is entered. 57 V. c. 4, s. 4, part, and s. 5, part. [See sec. 77.]

When entered in Voters' Lists prepared for territory without municipal organization.

10. In every place which is not included within the limits of any organized municipality, but subject to the other provisions of this Act, every male person of the full age of twenty-one years, a subject of Her Majesty by birth or naturalization, and not disqualified under this Act, and not otherwise by law prohibited from voting, shall, if duly entered on the list of voters proper to be used, be entitled to vote at elections to serve in the Legislative Assembly of this Province: Who may
vote at an
election.

Provided that such person has resided in this Province for the nine months preceding the first day of June of the year in which the lists of voters aforesaid was prepared and has resided in the electoral district from the said first day of June continuously up to the time of tendering his vote. 55 V. c. 2, s. 2; c. 3, s. 7 (1) part.

Temporary Absence.

11.—(1) A person may be resident in the municipality within the meaning of this Act, notwithstanding occasional or temporary absence in the prosecution of his occupation as a lumberman, mariner, or fisherman, or attendance as a student in an institution of learning in the Dominion of Canada, and such occasional or temporary absence shall not disentitle such person to be entered on the assessment roll or voters' list as a qualified voter, or to vote; but no person shall be deemed to be domiciled within the meaning of sections 8 and 9 in a municipality in which he is in attendance as a student at an institution of learning as aforesaid if he has a residence in another municipality in which he is entitled to be a voter. 55 V. c. 3, s. 7 (2); c. 48, s. 14b (4). Temporary
absence not to
disqualify.

Domicile of
students.

(2) "Mariner" in this section shall mean and include the officers, sailors, engineers, cooks, stewards, waiters, deck hands and other persons employed upon any steamboat or sailing vessel during its navigation. 58 V. c. 3, s. 5. "Mariner,"
meaning of.

Indians.

12. Enfranchised Indians, whether of whole or part Indian blood, shall, like other persons, be entitled to vote without having a property qualification; but every such Indian Indians.

shall if required by the candidate or agent or by the deputy-returning officer, take the following oath or affirmation in addition to any other oath required of a voter under the law :

“ You swear that you are an enfranchised Indian and entitled as such to vote at this election.”

55 V. c. 3, s. 7b.

Unenfranchised
Indians

13. Every unenfranchised Indian, of whole or part Indian blood, not residing among Indians or on an Indian reserve, being of the full age of twenty-one years, and a subject of Her Majesty by birth or naturalization, and not being disqualified under this Act, or otherwise by law prevented from voting, shall, (though he participates in the annuities, interest moneys, and rents of a tribe, band or body of Indians) if duly entered on the list of voters in the poll book proper to be used at the election then pending, according to the provisions of *The Voters' Lists Act*, or of this Act, be entitled to vote at elections of members to serve in the Legislative Assembly of this Province.

R. v. Stat.,
c. 7.

Real property
qualification.

Provided such Indian is at the time of the election a resident of and domiciled within the Electoral District for which he claims to vote, and was at the time of the final revision and correction of the assessment roll entered on the revised assessment roll, upon which the voters' list is based for any city, town, incorporated village or township, for real property of the value hereinafter mentioned, that is to say:—

In cities and towns, \$200;

Value of real
property
necessary.

In incorporated villages and townships, \$100;

Joint owners.

(a) Where real property is owned or occupied jointly by two or more persons, and is rated at an amount sufficient, if equally divided between them, to give a qualification to each, then each of them shall be deemed rated within this Act, otherwise none of them shall be deemed so rated. 51 V. c. 4, s. 7 (2) part; 55 V. c. 3, s. 7c.

Unenfranchised Indians
where there is
no assessment
roll.

14.—(1) Where there is no assessment roll the only unenfranchised Indians or persons with part Indian blood who are entitled to vote shall be the following, namely: Unenfranchised Indians or persons with part Indian blood who do not participate in the annuities, interest moneys or rents of a tribe, band or body of Indians, and do not reside among Indians or on an Indian reserve, subject to the same property and other qualifications, and to the same provisions and restrictions, as other unenfranchised Indians in cases in which there is both an assessment roll and voters' list. 55 V. c. 3, s. 7d (a).

Unenfranchised Indians

(2) Unenfranchised Indians, of whole or part Indian blood residing among Indians, or on an Indian reserve, shall not be entitled to vote. 55 V. c. 3, s. 7e.

15.—(1) In any place where there is an assessment roll a person alleged by a candidate, or the agent of a candidate, to be an Indian, or person with part Indian blood, shall, if required by the candidate or agent, or by the deputy returning officer, take the following oath or affirmation in addition to any other oath required of a voter under the law:—

Oath for Indian where there is an assessment roll.

You swear that you do not reside among Indians or on an Indian reserve

Or, at his option, the following:—

You swear that you are not an Indian, nor a person with part Indian blood.

Or, the following:—

You swear that you are an enfranchised Indian and entitled as such to vote at this election.

(2) In any place where there is no assessment roll any such person shall, if so required as aforesaid, take the following oath in addition to any other oath required of a voter under the law:—

Oath where no assessment roll.

You swear that you do not participate in the annuities, interest moneys or rents of any tribe, band or body of Indians, and that you do not reside among Indians or on an Indian reserve.

Or, at his option, the following:—

You swear that you are not an Indian, nor a person with part Indian blood.

Or, the following:—

You swear that you are an enfranchised Indian and entitled as such to vote at this election.

55 V. c. 3, s. 7d (b).

SUBDIVISIONS FOR POLLING PLACES.

16.—(1) It shall not be necessary for a Returning Officer to re-divide a polling subdivision, on account of the same containing more than two hundred voters, so long as it does not contain more than three hundred; but if it contains more than three hundred, he shall divide it into two subdivisions.

When new polling subdivision to be made.

(2) Nothing in this section contained shall be held to relieve the council of a municipality from the duty of making a new division of the municipality or any part thereof into polling subdivisions, or re-dividing a subdivision as often as the number of qualified voters in a polling subdivision exceeds two hundred. 55 V. c. 3, s. 8 (6-7).

17. In case it is necessary for a Returning Officer to divide a municipality or any part thereof into polling subdivisions, he shall be paid by the treasurer of the municipality a reasonable allowance therefor. 55 V. c. 3, s. 14.

Remuneration of returning officer for making polling subdivisions.

Duty of Returning Officer in case polling subdivisions have not been established.
Rev. Stat. c. 223.

18. In case of failure on the part of a municipal council to divide a city, town or other local municipality into polling subdivisions proportioned to the number of electors, as provided, by *The Municipal Act* or in case the time to appeal from the division should not have expired before the receipt of the writ, the Returning Officer shall provide as many polling places for polling the votes of the electors in the city, town or other local municipality, as shall correspond as nearly as may be, with the number of polling places which would have been required if the city, town or other local municipality had been subdivided into the proper number of polling subdivisions. 55 V. c. 3, s. 13.

[As to divisions to be made by Municipal Councils, see *The Municipal Act*. R. S. O. 1897, c. 223, sec. 536.]

RETURNING OFFICERS.

Appointment of Returning Officer.

19. No commission shall be required for the appointment of a person as Returning Officer at any election for a member to serve in the Legislative Assembly, but the direction of a writ of election to a person named therein as Returning Officer shall be a sufficient appointment of the person as Returning Officer for the election. 55 V. c. 3, s. 15.

Sheriff or Registrar to be Returning Officer.

20.—(1) Every writ for the election of a member of the Legislative Assembly shall be addressed to the Sheriff, or to the Registrar of deeds, or to one of the Sheriffs, or one of the Registrars of deeds, for the Electoral District, or some portion of the Electoral District for which the election is to take place, and he shall be the Returning Officer at the election.

(2) Not more than one writ of election shall be addressed to the same Returning Officer at one time. 55 V. c. 3, s. 16.

In case no Sheriff or Registrar.

21.—(1) In case there is no Sheriff or Registrar to whom a writ of election for an Electoral District can be addressed, the writ shall be addressed to such other person as the Lieutenant-Governor may appoint to be Returning Officer.

Returning Officer, where office of Sheriff or Registrar vacant.

(2) Where a Sheriff or Registrar has died or has been removed from or has resigned his office of Sheriff or Registrar, and his successor has not been appointed, the writ of election which might otherwise have been addressed to the Sheriff or Registrar, shall be addressed to such other person as the Lieutenant-Governor may appoint to be Returning Officer. 55 V. c. 3, s. 17.

Refusal or incapacity to act.

22. In case the person to whom the writ should under the foregoing provisions be addressed, or to whom the writ has been addressed; should refuse to act, or should be absent, or should be incapacitated or unable from sickness or any other

cause to act as Returning Officer, the Lieutenant-Governor may appoint some other person as Returning Officer. 55 V. c. 3, s. 18.

23. In case a writ has been issued to a person whose appointment is subsequently superseded, a new writ may be issued; or the new Returning Officer may act under the writ already issued, as if the same had been addressed to him; and if valid proceedings have been had under the first appointment, the validity of the proceedings shall not be affected by the new appointment; but the new Returning Officer may appoint a new Election Clerk and new Deputy Returning Officers, if he thinks fit, notwithstanding valid appointments to such offices had already been made by the person previously named as Returning Officer. 55 V. c. 3, s. 19.

Where writ directed to person whose appointment is subsequently superseded.

24.—(1) None of the persons hereinafter designated in this section, shall, in any case, be appointed or act as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, that is to say:—

Persons excluded from being Returning Officers, etc.

- (a) Members of the Executive Council;
- (b) Members of the Parliament of the Dominion of Canada or of the Legislative Assembly of this Province;
- (c) Any Minister, Priest or Ecclesiastic, under any form or profession of religious faith or worship;
- (d) A Judge of a Court having general jurisdiction throughout Ontario, or having local jurisdiction throughout any county or other territorial division;
- (e) Persons who have served in the Legislature of this Province as members of the Legislative Assembly, in the Session next immediately preceding the election in question, or in the then present Session, if the election takes place during a Session of the Legislative Assembly.

(2) If any one of the said persons is appointed to act and acts as Returning Officer, or as Deputy Returning Officer, or as Election Clerk, or as Poll Clerk, he shall thereby incur a penalty of \$200. 55 V. c. 3, s. 20.

Penalty.

25. None of the persons hereinafter mentioned in this section, shall, unless they are Sheriffs or Registrars, or Town Clerks or Assessors, be obliged to act as Returning Officer or Deputy Returning Officer, or as Election Clerk or Poll Clerk, that is to say:

Exempted persons.

- (a) Physicians and Surgeons;
- (b) Millers;
- (c) Postmasters;

(d) Persons being sixty years of age or upwards ;

(e) Persons who have previously served as Returning Officers. 55 V. c. 3, s. 21.

Penalty for refusal to act.

26. Every Sheriff or Registrar, and every other person having the qualifications required by this Act for acting as Returning Officer, who refuses to perform the duty of Returning Officer at any election as aforesaid, after having received the writ of election, shall, for such refusal, incur a penalty of \$200 ; unless such person, not being a Sheriff or Registrar, and having a right to claim the exemption granted by the next preceding section, has in fact claimed exemption by letter setting forth the grounds of such exemption, forwarded to the Clerk of the Crown in Chancery, within two days next after the receipt of the writ of election. 55 V. c. 3, s. 22.

GENERAL ELECTIONS.

Lieut. Gov. error to fix days of election and polling in case of a general election.

27. Whenever a new Legislative Assembly is called, and a general election is to be held for that purpose, the Lieutenant-Governor in Council shall fix the day for holding the elections, and shall also fix the day on which the polling shall take place, in cases where a poll is granted. 55 V. c. 3, s. 23.

Time for holding elections and for polling.

28. The day to be fixed as aforesaid for holding the elections shall not be more than twenty days nor less than sixteen days from the date of the writs of election ; and the day for holding the polls shall not be more than eight, nor less than six days after the day for holding the elections. 55 V. c. 3, s. 24.

At general elections all elections on same day.

29. At every general election, the elections for all Electoral Districts throughout the Province shall take place and be held on one and the same day, and the polling at all elections where polls have been granted, shall also take place on one and the same day, and the respective days so fixed for holding the elections, and for opening and holding the polls, shall be stated and inserted in the proclamation calling the general election, and in the several writs of election in that behalf. 55 V. c. 3, s. 25. See 57 V. c. 6, s. 1.

Polling days to be identical.

Date and return of writs for general election.

30. All the writs for a general election of Members of the Legislative Assembly shall be dated on the same day, and need not name a return day, but shall be returnable forthwith after the execution thereof 55 V. c. 3, s. 26.

Notices as to secrecy to be sent to returning officers before elections.

31.—(1) Previously to any general or other election of members of the Legislative Assembly, the Clerk of the Crown in Chancery shall procure to be printed in conspicuous characters a notice as to secrecy, according to Form 13 in Schedule A to this Act, and shall transmit by post to the returning officer

of every electoral district in which there is to be a contest, such number of copies as he may deem sufficient to supply every deputy returning officer with ten copies, one copy of which the deputy returning officer shall placard conspicuously outside the polling place, and one copy he shall placard conspicuously within the polling place, and he shall see that they remain so placarded from the opening to the close of the poll.

(2) The said notice may be either separate from or added to the notice for the guidance of voters in voting, being Form 12 in Schedule A to this Act. 55 V. c. 3, s. 26*a*.

PROCEEDINGS AT ELECTIONS.

ISSUE OF THE WRIT.

32.—(1) Whenever a writ of election is issued for the election of a member to serve in the Legislative Assembly of this Province, the same shall be directed to the Sheriff or Registrar, who is *ex officio* the Returning Officer for the Electoral District, or to the person appointed by the Lieutenant-Governor, where such appointment is made according to the requirements of this Act. Writs to be addressed to Returning Officers.

(2) The Lieutenant-Governor may cause the writs for the Electoral Districts of Algoma West, Algoma East, Muskoka, Nipissing and Parry Sound, respectively, to be directed to the Sheriff or Registrar of Algoma, Thunder Bay or Rainy River, or to the Registrar of Muskoka, or of Parry Sound, or to such other Returning Officer as he thinks fit. 55 V. c. 3, s. 27. Writs for Districts of Algoma, etc.

33. Immediately after the issue of the writ of election in the next preceding section mentioned, the Clerk of the Crown in Chancery shall supply the Returning Officer appointed for the electoral district for which the election is to be held with a sufficient number of blank poll-books for the purposes of such election, having regard to the number of polling subdivisions within the district, and the blank voters' lists in such poll-books shall be in Form 6 in Schedule A to this Act, and each of such poll-books shall shew the date of the polling day and shall contain the following blank forms: Clerk of the Crown in Chancery to supply poll books.

1. Commission of deputy-returning officer.

2. Oath of deputy-returning officer.

3. Copy of the certificate of the clerk of the municipality shewing the time fixed for the assessor to begin to make the assessment roll and the last day on which a complaint could be made to the County Judge under section 17 of *The Ontario Voters' Lists Act*. Rev. Stat., c. 7.

4. Commission of poll clerk.

5. Oath of poll clerk.

6. Oath and affirmation of secrecy.

7. Schedule for names of persons voting under certificates.

8. Schedule for names of persons marking tendered ballot papers.

9. Schedule of voters whose ballot papers have been marked under section 106.

10. Schedule for "Notes of objections" to ballot papers under section 112 (4).

11. Statement of the poll after counting the ballot papers.

12. Ballot paper account.

13. Oath of deputy-returning officer after closing the poll.

14. Oath of poll clerk after closing the poll.

15. Copy of certificate of clerk of municipality as to dates of return and final revision of the assessment roll. 55 V. c. 3, s. 27*a*.

PROCEEDINGS ON THE RECEIPT OF THE WRIT.

Endorsement
on writ.

34. Each Returning Officer shall, on receiving a writ of election, forthwith endorse thereon the date of its receipt. 55 V. c. 3, s. 28.

Proclamation of Nomination Day.

Proclamation.

35.—(1) The Returning Officer shall, by a proclamation in the English language under his hand, in the words or to the effect of Form 1, in Schedule A, to this Act, declare the place, day and hour at which the election will be held, and shall cause the proclamation to be posted up in the manner hereinafter prescribed, with all reasonable speed after the receipt of the writ and at least eight days before the day fixed for holding the election, which day so fixed shall be called the Nomination Day.

Posting up of
proclamation.

How the eight
days' notice
reckoned.

(2) Neither the day of nomination nor that of the posting up of the proclamation, shall be included in the eight days. 55 V. c. 3, s. 29.

Place of
election.

36.—(1) The place at which the election will be held shall be fixed by the Returning Officer, and shall be in the public place most central and most convenient for the great body of the electors in the Electoral District for which he is acting as Returning Officer, and the hour to be fixed shall be between eleven o'clock in the forenoon and two o'clock in the afternoon of the day so fixed for opening the election.

Hour.

Unforeseen
delay in open-
ing elections.

(2) In case the Returning Officer, from unforeseen delay accident or otherwise, does not open the election until after the hour named, the election shall not, on that account, be invalid if it appears to the tribunal having cognizance of the question that the delay did not affect the result of the election. 55 V. c. 3, s. 30.

37. In and by the proclamation aforesaid, the Returning Officer shall also declare the day on which, in case a poll is granted, as hereinafter provided, the poll shall be opened in conformity with this Act, in each City, Township, or Union of Townships, or Ward, or part of Township or Ward (as the case may be), for taking and recording the votes of the electors according to law. 55 V. c. 3, s. 31. Polling day.

38. If the election is for a City or Town, the Returning Officer shall cause the proclamation to be posted up at the City or Town Hall, and in some public place in each Ward of the City or Town. 55 V. c. 3, s. 32. Places of posting up proclamation in city or town.

39.—(1) If the election is for a County or Riding, the Returning Officer shall cause the proclamation to be posted up at the Town Hall or other public place where the meetings of the Municipal Council of each Township are held, at every post office in the Electoral District, and at least at one public place in every polling subdivision. In County or Riding.

(2) It shall not be necessary in the Electoral Districts of Algoma West, Algoma East, Muskoka, Nipissing and Parry Sound, to post up the proclamation for holding the election at every post office in the said Electoral Districts, but the proclamation shall be posted in some public place in the neighbourhood of each place at which a poll is required to be held in case a poll is granted. 55 V. c. 3, s. 33. Places of posting up proclamation in districts of Algoma, etc.

40. A Returning Officer refusing or neglecting to cause such proclamation to be posted up as above required, shall, for such neglect or refusal, incur a penalty of \$200. 55 V. c. 3, s. 34. Penalty.

41. In cases where from unforeseen delays, accident or otherwise, the proclamation for holding an election for a member of the Legislative Assembly for any Electoral District could not be posted up so as to leave the required delay between the posting up of the proclamation and the nomination day appointed by the Lieutenant-Governor, or by the Returning Officer, as the case may be, and in cases where from unforeseen delays, accidents, or otherwise, as aforesaid, the Returning Officer is unable to open the election within the prescribed hours on the day he fixed for that purpose, he may fix new days for the nomination of candidates and for the polling; and in such case the nomination shall be the nearest day practicable, not being a Sunday or statutory holiday, after allowing the number of days required by law between the posting up of the proclamation and the nomination day; and in every such case the Returning Officer shall, with his return, make to the Clerk of the Crown in Chancery a report of the cause which occasioned the postponement of the election. 55 V. c. 3, s. 37. Unforeseen delays provided for.

Communica-
tion with
Pelee Island
and Amherst
Island may be
by telephone.

42. Whenever an election of a member to the Legislative Assembly to represent any electoral district of which either Pelee Island or Amherst Island forms a part is to be held between the months of October and April, the Lieutenant-Governor in Council, if satisfied that communication and travel between said Pelee Island or Amherst Island and the main land is, during the holding of such election, likely to be dangerous or to be interrupted, may direct that all necessary instructions and information relating to such election may be transmitted by telephone by the returning officer to the deputy returning officer or officers, and by him or them to the returning officer, so that such returning officer may be informed of the number of votes given for each candidate and of all other matters relating to the election, and be enabled to return the candidate having the majority, or to make such other return as the case requires; and the Lieutenant-Governor in Council may make such order as to the details of the proceedings at or relating to such election, to be so transmitted to either said Pelee Island or Amherst Island, as the case may be, as to him seems proper for best attaining the purpose of this enactment 55 V. c. 3, s. 37a.

Polling Places.

Polling places
in each polling
subdivision.

43.—(1) The Returning Officer shall also, on receiving the writ of election, fix one polling place for each subdivision into which a city, town or other local municipality is subdivided, in the most central and convenient place for the electors of such subdivision; but the number of polling places now required by law in Cities and Towns shall in no case be diminished, except as hereinafter provided and the polling places shall be at least one hundred yards distant from each other in Cities, Towns and incorporated Villages, and at least one mile distant from each other in other local municipalities. 55 V. c. 3, s. 38 (1); 57 V. c. 5, s. 1.

Additional
polling places
in discretion
of Returning
Officer.

(2) A Returning Officer may in his discretion grant such additional polling places in any polling subdivision as the extent of the subdivision and the remoteness of any body of its voters from the polling place render necessary. 55 V. c. 3, s. 38 (2).

Returning
officer may
unite polling
subdivisions
in cities.

(3) In cities, the returning officer may in his discretion unite two or more adjoining polling subdivisions and fix one polling place for the united subdivision: Provided always that such united polling subdivision shall not contain more than 200 voters. 56 V. c. 3, s. 28; 57 V. c. 5, s. 2.

Polling place
not to be a
tavern.

(4) The building in which the poll is held shall not be a tavern or place of public entertainment; and there shall be free access to the poll for every elector.

Providing
polling places
in cities.

(5) In Cities, unless the Municipal Council provides suitable polling places at its own expense, the Returning Officers shall provide the same; and the expense thereof, not exceeding

\$8 for each polling place, shall be paid by the Treasurer of the City, upon the order of the Returning Officer. 55 V. c. 3, s. 38 (3, 4).

(6) In case the returning officer is dissatisfied with any polling places provided by the city he may provide others in lieu thereof. 58 V. c. 4, s. 22.

44. Every polling place shall be furnished with compartments in which the voters can mark their votes screened from observation; and it shall be the duty of the Returning Officer and the Deputy Returning Officer respectively, to see that a sufficient number of compartments is provided at each polling place. 55 V. c. 3, s. 39.

Compartment for voters to mark ballots.

Ballot Boxes.

45.—(1) The Returning Officer shall also, on receiving the writ of election, procure or cause to be procured as many boxes (hereinafter called ballot boxes) as there are polling subdivisions within the Electoral District.

Ballot boxes to be furnished.

(2) The ballot boxes shall be made of some durable material. shall be provided with a lock and key, and shall be so constructed that the ballot paper can be introduced therein, and cannot be withdrawn therefrom unless the box be unlocked.

How made.

(3) If the Returning Officer fails to furnish ballot boxes in the manner herein provided, he shall incur a penalty of \$100 in respect of every ballot box which he has failed to furnish in the manner prescribed. 55 V. c. 3, s. 40.

Penalty on failure to furnish boxes.

Oath of Returning Officer.

46. Every Returning Officer shall, before the day fixed for opening the election, take and subscribe before a Justice of the Peace for the County or District in which he resides, the oath Form 2 in Schedule A to this Act; and a Returning Officer who refuses or neglects to take and subscribe the oath, shall, for such refusal or neglect, incur a penalty of \$40. 55 V. c. 3, s. 41.

Oath of Returning Officer.
Penalty.

Election Clerks.

47. Every Returning Officer shall, before the nomination day, appoint, by a commission under his hand, to the effect of Form 3 in Schedule A to this Act, a fit person to be his Election Clerk, and to assist him in the performance of his duties as Returning Officer. 55 V. c. 3, s. 42.

Returning Officer to appoint an Election Clerk.

48. The Election Clerk shall before entering upon his duties take and subscribe, either before a Justice of the Peace for the County or District in which he resides or before the Returning Officer, the oath Form 4 in Schedule A to this Act. 55 V. c. 3, s. 43.

Oath of Election Clerk.

Plastic may be
used in a
variety of
ways.

49 The oaths and commission mentioned in the three preceding sections may be either printed or written or partly printed and partly written on the back of the writ of election. 55 V. c. 3, s. 43a.

THE UNIVERSITY OF CHICAGO

50 A person so appointed as Election Clerk who refuses to accept the office or who having accepted it refuses or neglects to take and subscribe the oath, or to perform the duties of Election Clerk, shall, for such refusal or neglect, incur a penalty of \$40. 55 V. c. 3, s. 44.

...the ...

51. The Returning Officer may, at any time before or after the nomination day appoint the Election Clerk to be named in the petition as his Election Clerk, subject to the provisions of this Act, by reason of the death, illness or absence of the Election Clerk previously appointed, or of his refusal or neglect to act, or otherwise; and the new Election Clerk so appointed shall perform all the duties and comply with all the obligations of his office, under the same penalty, in case of refusal or neglect on his part, as is hereinbefore imposed in case of the refusal or neglect of the Election Clerk to act, and the appointment and oath of an Election Clerk appointed under this section shall be either endorsed on or attached to the writ of election and shall be in accordance with the provisions of sections 47 and 48 of this Act. 55 V. c. 3, s. 45.

turning
on

52. Whenever a Returning Officer, who has been appointed under section 22, is unable to perform his duties, or is absent from his duties, or is disqualified, or is otherwise, the Election Clerk by him appointed as aforesaid, unless another Returning Officer is duly appointed under section 22, shall, under the same penalties in case of refusal or neglect on his part as are hereinbefore imposed in like cases on the Returning Officer act as, and shall be Returning Officer for the election, and shall perform all the duties and be subject to all the obligations of that office, in like manner as if he had been duly appointed Returning Officer, and without being required to possess any other qualification, or to take any new oath. 55 V. c. 3, s. 46.

PROCEEDINGS ON THE NOMINATION DAY.

Proceedings of
the
of the
tion.

53. Every Returning Officer shall, at the time and place appointed for the election, in the presence of the electors assembled there, or of a sufficient number of them, who may have free access thereto, and shall make or cause to be made, in the English language, in the presence of the electors there assembled, a proclamation in the words or to the effect of Form 5 in Schedule A to this Act, and shall then and there read, or cause to be read publicly, in the English language, the writ of election, and his commission as Returning Officer when he has been appointed Returning Officer by special commission.

and shall then require the electors there present to name the person or persons whom they wish to represent them in the Legislative Assembly, in obedience to the writ of election. 55 V. c. 3, s. 47.

54. No show of hands shall be taken on the nomination day. Grant of poll. But if at the nomination more than one candidate is proposed the Returning Officer shall grant a poll for taking and recording the votes of the electors, and should he refuse or neglect to grant such poll he shall incur a penalty of \$1,000 and the election shall be *ipso facto* null. 55 V. c. 3, s. 48.

55. If only one candidate is nominated, or the electors there and then present agree in the choice so to be made of the person to represent them, the Returning Officer shall, at the expiration of one hour from the nomination of the candidate, and not before, close the election, and shall then and there openly proclaim the person so chosen to be duly elected. 55 V. c. 3, s. 50.

If only one candidate proposed within one hour, he to be declared elected.

56. The Returning Officer shall announce from the hustings on the day of nomination, and on or before the day of nomination, at the expense of the candidate, shall publish the name and address or the names and addresses of the agent or agents appointed in pursuance of section 197 of this Act; the publication shall be in some newspaper, if such there be, published or circulated within the Electoral District for which the election is to take place. 55 V. c. 3, s. 51.

Returning Officer to publish names and addresses of agents.

WITHDRAWAL OF CANDIDATES.

57. Any candidate nominated may withdraw at any time after his nomination and before the opening of the poll, by delivering to the Returning Officer a declaration in writing so withdrawing, signed by himself, and any votes cast for a candidate who shall have so withdrawn shall be null and void; and in case after the withdrawal there shall remain but one candidate, then it shall be the duty of the Returning Officer to return as duly elected the candidate so remaining, without waiting for the day fixed for holding the poll, or for the closing of the poll, if his withdrawal is delivered on the polling day. 55 V. c. 3, s. 52.

Withdrawal of candidate after nomination.

58. In case a candidate dies after being nominated and before the close of the poll, the Returning Officer may fix new days for the nomination of candidates, and for the polling, and in such case the nomination day shall be the nearest day possible not being a Sunday or statutory holiday, after allowing the number of days required by law between the posting up of the proclamation and the nomination day; and in every such case the Returning Officer shall with his return make

Death of candidate.

to the Clerk of the Crown in Chancery a report of the cause which occasioned the postponement of the election. 55 V. c. 3, s. 53.

PROCEEDINGS WHEN A POLL IS GRANTED.

Day of opening poll and time and place of summing up votes to be proclaimed.

59.—(1) Where at an election a poll has been granted, the Returning Officer, immediately after having granted a poll, and before adjourning his proceedings, shall publicly proclaim from the hustings the day previously fixed in and by his first proclamation, and the places at which the poll shall be so opened in every polling subdivision or ward (as the case may be), for the purpose of then and there taking and recording the votes of the electors according to law, and the place where and the time when the Returning Officer shall sum up the number of votes given to the several candidates.

Poll not to be held on Sundays or certain holidays.

(2) The day to be fixed for opening the poll as aforesaid shall not be a Sunday, New Year's Day, Good Friday, Christmas Day, Dominion Day, or the day appointed for the celebration of the birthday of the Sovereign; and the poll shall be opened and held on that day only, so that there be but one and the same day's polling at any special or general election. 55 V. c. 3, s. 54; 60 V. c. 15, Sched. A. (49).

Poll book to be furnished for each polling place.

60. Whenever polling subdivisions have been established by the Municipal Council, or have been provided for by the Returning Officer, a poll shall be opened and held in every subdivision, for taking the votes of the electors therein, and a poll book containing the names of all persons entitled to vote in the subdivision, according to the Form 6 given in Schedule A to this Act shall be furnished for every polling place appointed therefor. 55 V. c. 3, s. 55.

Polling places in Algoma West.

61.—(1) In the Electoral District of Algoma West a poll shall be opened and held at each of the places hereinafter mentioned, namely, in municipalities :—

North Ward, Port Arthur.	Rat Portage.
South Ward, Port Arthur.	Oliver Township, School
Fort William.	House No. 7.
Murillo.	

And in unorganized territory, at the following places :—

Ash Rapids,	Dryden, Township of Wain-
Aylesworth, Township of, lot	wright,
No. 13,	Emo, in the Township of Lash,
Beaver Mills, Township of Att-	Empress Mine,
wood,	English River,
Beaudreau's Fishing Station,	Fort Francis,
Lake of the Woods,	Harold Lake,
Barclay,	Hawk Lake,

Ignace,
Kalmac,
Keewatin Mills,
Leeblain,
Little Turtle Lake,
Manitou Lake,
Mikado Mine,
Mine Centre,
Morley, Township of, School
House,
Pine River, Township of Dilke,
Regina Mine,
Rossport,

Savanne,
Saw Bill Lake,
Schreiber,
Silver Creek,
Sturgeon Falls,
Sultana Mine,
Tache,
Vermillion Bay,
Wabagoon.
Whitefish Station, on Port
Arthur, Duluth and West-
ern Railway.

(2) In the electoral district of Algoma East a poll shall be opened and held at each of the places hereinafter mentioned, namely, in municipalities :—

Polling places
in Algoma
East.

Ward No. 1 South Tarren-
torus, School House,
Ward No. 2 East Korah
School House,
Ward No. 3 West Korah
School House,
Ward No. 4 Base Line
School House,
Ward No. 1 Sault Ste Marie,
Ward No. 2 Sault Ste Marie,
Ward No. 3 Sault Ste Marie,
Orchard School House, North
Macdonald Township,
Hurley's School House, South
Macdonald Township,
Bar River School House,
Desert Lake School House,
Temperance Hall, Township
of Tarbutt,
Richard's Landing Village,
Lyon's School House,
Irwin's School House,
Mountain School House,
section 2, Jocelyn,
Jocelyn School House, sec-
tion 1,
Tenby Bay, section 3, Jocelyn,
Hilton,
Kaskawan School House,
Little Rapids School House,
Thessalon,
Massey,
Webbwood,
Nairn Village,

Worthington Village,
Whitefish Village,
Rayside Town Hall,
Chelmsford,
Gore Bay,
Gordon Township, School
House, section No. 1,
Colin Campbell's Settlement,
School House, Township
of Burpee,
Big Lake School House,
Township of Sandfield,
Sandfield's Mills, School
House,
William Newman's Settle-
ment, Township of Sand-
field,
Providence Bay,
Mindemoya Lake School
House, lot No. 21, 4th con-
cession Carnarvon,
Michael's Bay,
Blue Jay River School
House,
Manitowaning,
School House, section No. 2,
Howland,
School House, section No. 5,
Howland.
Honora Bay, William Gra-
ham's Settlement, How-
land,
Kagawong Village,

Little Current,
Cockburn Island, School
House No. 1,

Bruce Mines,
Prince School House, 2nd
line, Township of Prince.

And in unorganized territory at the following places :—

White River Village,
Missinabie Station,
Chapleau Village.
Biscotasing Village,
Geneva Lake Village,
Cartier Village,
Finley's Settlement, School
House, Township of
Waters,
Walford Village,
Spanish Village,
Cutler Mills,
Cook's Mills,
Algoma Mills,
Blind River
Stephen Crawford's Settle-
ment, township of Thomp-
son.
Forrest Corners, Township
of Gladstone,
Pender's School House,
township of Parkinson,
Ainsley's School House,
township of Wells,
Day Mills,
Andrew Kerr's, Township of
Kirkwood,
Rydal Bank,

A. B. Dunn's School House,
township of Galbraith,
Fraser's School House, Town-
ship of Coffin.
Hugh Phillip's Settlement,
township of Coffin Addi-
tional,
Garden River,
J. McSorley's Settlement,
township of Fenwick,
Rosseau's Settlement, North
Shore of Lake Superior,
Aird Island,
Lewis Kemp's Settlement,
township of Robinson,
Poplar School House, Town-
ship of Mills,
Meldrum Bay,
Barrie Island, Reynold's
Settlement,
Loughead's School House,
Dougherty's School House,
Long Bay,
White Fish River, Mouth,
Killarney,
Collin's Inlet,
Picnic Island.

56 V. c. 4, s. 1 : 60 V. c. 14, s. 39.

(3) The Lieutenant-Governor in Council may from time to time add other polling places to those named.

(4) The Returning Officer shall establish as many polling places at the places before mentioned as he may consider requisite, and may appoint other places in addition to those named in this section.

(5) There shall be at least one polling place in every municipi-
pality for which there is an assessment roll. 55 V. c. 3, s. 56, (2-4.)

Polling
places
in Nipissing.

62. Polls shall be opened and held at an election in the Electoral District of Nipissing in each of the organized municipalities in accordance with the provisions of this Act; and in such municipalities one of such polls shall be opened at or near the place where the last municipal election was held, and in the unorganized territory at such places as the Lieutenant-Governor in Council may from time to time direct. 55 V. c. 3, s. 56a.

63. 1) On the day of polling the voting shall commence at nine o'clock in the forenoon, and shall finish at five in the afternoon of the same day, and the votes shall be given by ballot. Hours of voting.

(2) A voter entitled to vote within a city or town shall, on the day of polling, for the purpose of voting, be entitled to absent himself from any service or employment in which he is then engaged or employed, from the hour of noon in the day-time until the hour of two of the clock next thereafter, and a voter shall not, because of his so absentsing himself, be liable to any penalty, or suffer or incur any reduction from the wages or compensation to which but for his absence he would have been entitled: Provided, that if so required by the person in whose service or employment the voter is so engaged or employed, the voter so absentsing himself shall, at some other time during the same or the following week employ himself in and about such service or employment for one hour more than the hours of the usual and ordinary day's work or service otherwise required to be performed by him; Provided, moreover, that this sub-section shall not apply where a voter is by his employer or master permitted or allowed at any other period during the hours of polling, reasonable and sufficient time and opportunity to vote. Right of employee to time for voting. Proviso. Proviso. 55 V. c. 3, s. 57.

PROCEEDINGS PRELIMINARY TO THE POLL.

Deputy Returning Officers.

64. For the purpose of taking the votes at an election, the Returning Officer shall, by a commission under his hand, in the words or to the effect of Form 7 in Schedule A to this Act, and being Form 1 in the poll book appoint some suitable person to be Deputy Returning Officer for every polling subdivision in which a polling place is to be opened and kept, and shall thereby require the Deputy Returning Officer to open and hold the poll according to law, at the time and place fixed as hereinbefore provided, and at the poll to take and record in the voters' list in the poll book the particulars relating to electors voting at the polling place, which by this Act he is directed to take and record. Appointment of Deputy Returning Officers 55 V. c. 3, s. 58.

65. Every Deputy Returning Officer shall, before acting as such, take and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the Returning Officer, the oath Form 8 in Schedule A to this Act, being Form 2 in the poll book. Oath of office, etc. 55 V. c. 3, s. 59.

66. A person so appointed a Deputy Returning Officer who refuses to accept the office, or who, after having accepted the same, refuses or neglects either to take and subscribe the oath or to perform the duties of a Deputy Returning Officer, shall, for his neglect or refusal, incur a penalty of \$100. Penalty for refusing to perform duties of office. 55 V. c. 3, s. 60.

Township
Clerk to be a
Deputy Re-
turning Of-
ficer.

67. In townships divided into polling subdivisions, the Township Clerk shall be appointed by the Returning Officer to be Deputy Returning Officer for one of the polling subdivisions. 55 V. c. 3, s. 61; 60 V. c. 14, s. 84.

Provision in
case of death,
etc., of Deputy
Returning
Officer.

68. The Returning Officer may appoint, in the manner above provided, another person to be Deputy Returning Officer, when and so often as the case may require the appointment, either by reason of the death, illness or absence of a Deputy Returning Officer previously appointed, or by reason of his refusal or neglect to act in that capacity, or otherwise: and the new Deputy Returning Officer so appointed shall perform all the duties and be subject to all the obligations of the office under the same penalties, in case of refusal or neglect on his part, as are hereinbefore imposed in like cases, and the appointment and oath of the person so appointed shall be similar in form to those provided for by sections 64 and 65 of this Act, and the same shall be endorsed upon or attached to the poll book. 55 V. c. 3, s. 62.

Ballot Papers.

Ballot papers
to be printed.

69.—(1) Where a poll has been granted, the Returning Officer shall forthwith cause to be printed such a number of ballot papers as will be sufficient for the purposes of the election; and the number necessary for each polling subdivision shall be bound or stitched in a book of convenient size, and in such manner that the counterfoils shall continue bound or stitched when the ballot papers are detached therefrom.

Contents and
form.

2) Every ballot paper shall contain the names of the candidates, arranged alphabetically in the order of their surnames, or if there be two or more candidates with the same surname, of their other names, and the ballot papers may be according to the Form 11 given in Schedule A to this Act.

Number and
names of
candidates to
be printed in
different
colours.

(3) The number and names of every candidate shall, if practicable, be distinctly printed in ink of different colours, if on the nomination day the candidates agree as to the colours: and the Returning Officer shall give to every candidate a certificate setting forth the selection of the colour made by him.

Counterfoil.

(4) Every ballot paper shall have a counterfoil attached thereto; and every ballot paper and every counterfoil shall specify the name of the Electoral District for which it is to be used and every ballot paper shall have a number printed on the back thereof, and the same number shall be printed on the face of the counterfoil attached thereto, but the same number shall not be printed on more than one ballot paper to be used for the Electoral District. 55 V. c. 3, s. 63.

Tenders for
ballot papers.

70.—(1) In addition to the ballot papers hereinbefore referred to, the Returning Officer shall cause to be printed such a number

of other ballot papers (hereinafter called "tendered ballot papers.") to be used in the manner hereinafter directed, as will be sufficient for the purposes of the election.

(2) The tendered ballot papers shall be in the same form as the ballot papers hereinbefore referred to, but shall be of a different colour; and upon the back of every tendered ballot paper, and upon the face of the counterfoil attached thereto, shall be printed the words "Tendered Ballot Paper."

(3) The tendered ballot papers and the counterfoils attached thereto shall be numbered in a manner similar to that in which the other ballot papers and counterfoils are hereinbefore directed to be numbered, and shall be bound or stitched in like manner.

71. The Returning Officer shall, before the opening of the poll, deliver or cause to be delivered to every Deputy Returning Officer, the books containing the ballot papers and tendered ballot papers, with their respective counterfoils attached, which have been prepared for use in the polling subdivision for which the Deputy Returning Officer is appointed to act; and shall also furnish to the Deputy Returning Officer, or see that he is furnished, with the necessary materials for voters to mark the ballot papers, and such materials shall be kept at the polling place by the Deputy Returning Officer, for the convenient use of voters, and the deputy-returning officer shall forthwith enter in Form 12 in the poll book and being Form 22 in Schedule A hereto the number of ballot papers received by him from the returning officer opposite the words, "Ordinary Ballot Papers" and "Tendered Ballot Papers." 55 V. c. 3, s. 65.

Ballot Boxes.

72. When it becomes necessary, for the purposes of an election, to use the ballot boxes, it shall be the duty of the Returning Officer, two days at least before the polling day, to deliver one of the ballot boxes to every Deputy Returning Officer appointed for the purposes of the election. 55 V. c. 3, s. 66.

73. It shall be the duty of the Deputy Returning Officer, in every polling subdivision not supplied with a ballot box within the time prescribed in the next preceding section, forthwith to procure one to be made. 55 V. c. 3, s. 67.

Directions to Voters.

74. The Returning Officer shall, before the opening of the poll, deliver or cause to be delivered to every Deputy Returning Officer such a number of printed directions for the guidance of voters in voting, as he may deem sufficient, and shall so deliver or cause to be delivered, at least ten copies of such

printed directions : such directions shall be printed in conspicuous characters, and may be according to Form 12 in Schedule A to this Act. 55 V. c. 3, s. 68.

Deputies to placard the directions.

75. Every Deputy Returning Officer shall, before the opening of the poll, or immediately after he has received such printed directions from the Returning Officer, if he receives the same after the opening of the poll, cause the printed directions to be placarded outside the polling place for which he is appointed to act, and also in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. 55 V. c. 3, s. 69.

Certificates as to Assessment Roll.

Returning Officer to furnish Deputy Returning Officer with certificate of certain dates.

76.—(1) The Returning Officer shall, before the opening of the poll, obtain from the Clerk of the Municipality, the certificates hereinafter mentioned that is to say :

Rev. Stat. c. 7.

(a) A certificate shewing the day fixed for the assessor to begin to make the assessment roll on which the Voters' List proper to be used for the purposes of the election is based, and shewing also the last day on which a complaint could be made to the County Judge under section 17 of *The Ontario Voters' Lists Act* in respect of any error or omission in the said Voter's List, and such certificate shall be in the Form 9 in Schedule A hereto ;

(b) A certificate shewing the day when the assessment roll, upon which the said voters' list is based, was returned by the assessor, and also the day upon which the same was finally revised and corrected, and such certificate shall be in the Form 10 in Schedule A to this Act.

(2) The Returning Officer shall immediately enter copies of the said certificates in the proper poll books in Forms 3 and 15, in such Poll Books and shall certify thereunder that the same are true copies of the original certificates received by him from the said clerk.

Clerk to give certificate.

(3) The Clerk shall give the said certificates upon being required so to do by the Returning Officer or any other person who applies for the same, and shall be subject to a penalty of \$200 in case of neglect or refusal.

Fee.

(4) For every such certificate the Clerk shall be entitled to receive the sum of twenty-five cents.

Certificate to be evidence of dates.

(5) The copies of the said certificates in the poll book shall be the evidence upon which the deputy returning officer shall act in inserting in the oath to be administered to voters the date

of the return, or final revision, of the assessment roll, and the date for beginning to make the assessment roll, or the last day for making complaints as aforesaid, as the case may be. 55 V. c. 3, s. 70.

Lists of Voters.

77. Subject to the provisions in the next succeeding six sections contained, the first and third parts of the last list of Voters certified by the Judge, and delivered or transmitted to the Clerk of the Peace, under *The Ontario Voters' Lists Act*, before the date of the writ of election, shall be the proper list to be used for the purposes of an election to the Legislative Assembly. 55 V. c. 3, s. 71.

What voters' list to be used.

Rev. Stat. c. 7.

78. Subject to the provisions of section 108 of this Act, no person shall be admitted to vote unless his name appears on the list in the poll book; and no question of qualification shall be raised at an election, except to ascertain whether the person tendering his vote is the same person intended to be designated in the said list; and other questions of qualification shall be raised and decided on election petition only. 55 V. c. 3, s. 72.

Only the persons named in list in poll book to vote.

79. In case a Municipal Council has by by-law divided the Municipality into polling subdivisions, and the time for appealing from the by-law has expired, and no lists of voters for the subdivisions have been filed with the Clerk of the Peace, as required by *The Ontario Voters' Lists Act*, but a list of the voters of the Municipality or of the several wards therein has been duly certified by the Judge, such list shall be the proper list of voters for the election; and the Returning Officer shall cause the names on the voters' list to be entered in the proper poll book or books for the Deputy Returning Officers, having regard to the polling subdivisions provided for by the by-law. 55 V. c. 3, s. 73.

Where time for appealing from by-law making polling subdivisions has expired, and no voters' lists filed.

Rev. Stat. c. 7.

80. Where any territory is added for municipal purposes to a City, Town or Village belonging to, or constituting an Electoral District other than that to which such territory previously belonged, or when a Town with additional territory is erected into a City, or a Village with additional territory is erected into a Town, or in case a Village is formed including territory which belonged to an Electoral District other than that to which the Village belongs, and an election takes place previous to the voters' lists including the names of persons entitled to vote in such territory, being made out for the City, Town or Village, or before the lists are certified by the County Judge, then all persons who would have been qualified as electors if such territory had remained separate from the City, Town or Village, and if the election had been for the Electoral District to which such territory formerly belonged, shall be entitled to vote in the City, Town or Village. 55 V. c. 3, s. 74.

Where new territory, added to city, town or village, and no voters' list which includes such new territory.

Duty of Returning Officer in cases of added territory as to voters' lists.

81. In all such cases the clerks of the peace under the direction of the Returning Officer shall extract from the proper voters' lists of the Municipality or Municipalities to which such territory formerly belonged, containing the names of voters entitled to vote in respect of such territory, the names of the several voters in the lists entitled to vote in such territory, and shall place such names in the proper poll book or books for the purpose of enabling the persons named in such lists to vote at the election in the city, town or village. 55 V. c. 3, s 75.

Where voters' list embraces portions of Electoral Districts.

82. Where a voters' list embraces territory comprising portions of two or more Electoral Districts, every clerk of the peace under the direction of the returning officer shall enter the names of the voters in such territory in the proper poll book or books. 55 V. c. 3, s. 76.

Municipalities in Algoma, etc., where there is an assessment roll but no voters' list filed or certified.

83.—(1) In any Municipality in the Electoral Districts of Algoma East, Algoma West, East Victoria, North Hastings, North Renfrew, South Renfrew, Muskoka, Nipissing and Parry Sound, where there is an assessment roll, but for which no voters' lists containing the names of the voters in the municipality have been filed with the Clerk of the Peace, or certified by the County Judge, the Returning Officer shall, upon receipt of the writ, deliver to the clerk of the municipality a blank poll book, or if the municipality is divided into polling sub-divisions a blank poll book for each such sub-division, and the said clerk of the municipality shall forthwith from the assessment roll in his custody enter in the said poll book or books in alphabetical order, the names of all persons entitled to vote in such municipality or sub-division (as the case may be) and shall within four days return the said poll book or books to the returning officer completed, having first certified to the correctness thereof before a justice of the peace.

Polling-book in Algoma, etc.

(2) Every list of voters entered in such poll book so prepared (or a similar list otherwise procured by the Returning Officer, at the expense of the clerk, in case of the failure of the clerk to furnish the same within a reasonable time), shall be the voters' list to be used at the election for the Municipality or polling subdivision.

(3) In every Municipality in the districts in which there is an assessment roll, it shall be necessary that the name of the elector shall appear upon the list of voters in the poll book prepared under this section, or under *The Ontario Voters' Lists Act*; and in such case the same provisions as to qualification of voters and other matters shall apply as in other electoral districts, and the oath or affirmation to be required of voters shall be the same. 55 V. c. 3, s. 77.

84.—(1) Every Returning Officer, upon granting a poll at an election, shall forthwith deliver to the Clerk of the Peace as many blank poll books as there are polling sub-divisions in the electoral district, and the said Clerk of the Peace shall without delay enter or cause to be entered in the poll book for each sub-division from the proper list of voters the name of every person appearing therefrom to be entitled to vote within the sub-division for which the said poll book is required, and the said Clerk of the Peace shall add to each poll book a certificate to the effect that the said poll book contains a true copy of the proper list of voters for the said polling sub-division; and the said poll books completed as aforesaid shall be re-delivered to the Returning Officer within four days from the date of their receipt by such Clerk of the Peace in blank, and the Returning Officer shall immediately cause the said poll books to be delivered to the deputy returning officers appointed to hold the polls throughout the electoral district.

Clerk of the peace to enter names on voters' list in poll book.

(2) The Clerk of the Municipality who has the custody of a voters' list shall if required by the Returning Officer discharge the duties by this section assigned to the Clerk of the Peace.
55 V. c. 3, s. 78.

85.—(1) In the case of cities and of towns to which *The Manhood Suffrage Registration Act* applies, the Clerk of the Peace, when entering into the poll book under the next preceding section the names of persons appearing to be entitled to vote within the sub-division for which the poll book is required, shall write on the first line of the poll book, in red ink, the words "Voters entitled under the joint municipal and assembly list," and shall, in the first place, enter in the poll book the names of the persons whose surnames commence with the letter A, and who are under the said joint municipal and assembly list, as revised by the Judge, entitled to vote at both municipal elections and elections to the Legislative Assembly, and no other names.

Poll books,—mode of entering names.

(2) When the said Clerk completes the list of names commencing with A, as aforesaid, he shall write on the line immediately below the last of said names the following words, in red ink, "Voters entitled under Manhood Suffrage." The Clerk shall then enter in the said poll book the names of the persons whose surnames commence with A, appearing in the last list of manhood suffrage voters prepared under *The Manhood Suffrage Registration Act*.

Entry at end of each alphabetical list.

Rev. Stat. c. 8.

(3) The Clerk shall in like manner proceed with the other names on the list revised by the Judge, and the list of manhood suffrage voters, until he has entered in alphabetical order the names of all persons who are, under the said list as revised by the Judge, entitled to vote at both municipal elections and elections to the Legislative Assembly and all the names appearing in the said list of manhood suffrage voters, under headings distinguishing the different classes as aforesaid.

Signature of clerk of the peace.

(4) The Clerk shall sign his name immediately under the last name of each initial letter.

Certificate of clerk of peace.

(5) The Clerk of the Peace shall on the last page of the poll book certify the date on which, as appearing by the Registrar's certificate appended to his list, the first sitting was held for the preparation of the manhood suffrage voters' list. 57 V. c. 4, s. 43 (1-4, 6).

Deputies to prefix numbers to names in poll books.

86. The Deputy Returning Officer shall, upon receiving the poll books containing the voters' list for the polling subdivision for which he is to act, prefix a number to every name in such list, and the numbers so prefixed need not be consecutive numbers, but may be chosen arbitrarily by the Deputy Returning Officer; but the same number shall not be prefixed to more than one name; and the Deputy Returning Officer shall take all necessary precautions for concealing and shall conceal from all persons (except the Poll Clerk) the numbers so prefixed by him to the names in such list. 55 V. c. 3, s. 79.

Poll Clerks.

Appointment of Poll Clerks.

87.—(1) Every Deputy Returning Officer shall, by a commission under his hand and according to Form 14 in Schedule A to this Act, and being Form 4 in the poll book appoint a Poll Clerk to assist him in taking the poll according to law; and every Poll Clerk appointed as aforesaid shall, before acting, take and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the Returning Officer, or Deputy Returning Officer, the oath Form 15 in Schedule A to this Act, being Form 5 in poll book.

Penalty.

(2) Every person so appointed a Poll Clerk who refuses to accept the office, or who, after having accepted the same, refuses or neglects either to take and subscribe the oath hereby required of him, or to perform the duties of a Poll Clerk, shall, for such neglect or refusal, incur a penalty of \$40. 55 V. c. 3, s. 80.

Poll Clerk to aid Deputy Returning Officer.

88. Every Poll Clerk shall, at the polling place for which he is appointed, aid and assist in the performance of the duties of his office the Deputy Returning Officer appointed to open and keep the poll in conformity with this Act, and shall obey the orders of the Deputy Returning Officer. 55 V. c. 3, s. 81.

To act as Deputy Returning Officer in certain cases.

89. If the Deputy Returning Officer refuses or neglects to perform the duties of his office, or becomes unable to perform them, either by death, illness, absence or otherwise, and if no other Deputy Returning Officer duly appointed by the Returning Officer in the place of the former, appears at the polling place, then the Poll Clerk shall, under the same penalties as are hereinbefore imposed in like cases on a Deputy Returning Officer, act at the poll as Deputy Returning Officer, and perform all the duties and be subject to all the

obligations of that office, in the same manner as if he had been appointed Deputy Returning Officer by the Returning Officer, and without being bound to take a new oath for that purpose. 55 V. c. 3, s. 82.

90. Where any Poll Clerk, as hereinbefore provided, acts as Deputy Returning Officer, he may appoint by a commission under his hand, according to Form 14 in Schedule A to this Act, another person as Poll Clerk, to aid and assist him as aforesaid in the performance of the duties of his office, and may administer to such Poll Clerk the oath required of a Poll Clerk by this Act; and the Poll Clerk so appointed shall have the same duties and be subject to the same obligations as if he had been appointed Poll Clerk by the Deputy Returning Officer himself, and such commission and oath shall be endorsed on or attached to the poll book. 55 V. c. 3, s. 83.

In which case he may appoint another Poll Clerk.

91. Where a Poll Clerk, appointed under the requirements of this Act, refuses or neglects to perform his duty, or becomes unable to perform it, either by death, illness absence or other cause, the Deputy Returning Officer, whose Poll Clerk he was, may appoint by a commission under his hand, according to Form 14 in Schedule A, another person as Poll Clerk at the polling place, to aid and assist him as aforesaid in the duties of his office, and may administer to him the oath required of a Poll Clerk by this Act, and such commission and oath shall be endorsed on or attached to the poll book. 55 V. c. 3, s. 84.

Deputy Returning Officer may appoint another Poll Clerk in certain cases.

WHERE VOTERS TO VOTE.

92. In case the name of a person entitled to vote is entered on the list of voters for more than one polling subdivision in an Electoral District, such person shall only vote at the polling place for the sub-division in which he resides, if entitled to vote in such sub-division, under a penalty of \$200, but this provision shall not affect his right to vote in another polling sub-division under a certificate properly granted under section 94 of this Act. 55 V. c. 3, s. 85.

Voter to vote in subdivision in which he resides.

93. Where a voters' list has been prepared under Part III. of *The Ontario Voters' Lists Act* for any territory for which there is no assessment roll, subject to section 94, every person named therein may vote at the polling place assigned to him by such voters' list and not elsewhere. 55 V. c. 2 s. 8 part.

Where voter to vote where no assessment roll. Rev. Stat. c. 7.

94. (1) The Returning Officer, on the request of any elector entitled to vote who has been appointed Deputy Returning Officer or Poll Clerk, or who has been named the agent of any of the candidates at a polling place other than the one where he is entitled to vote, shall give to such elector a certificate that he is entitled to vote at the election at the polling place where he is stationed during the polling day.

Deputy Returning Officers and agents may vote at polling places where they are employed.

on production
of certificate
of Returning
Officer.

(2) On the production of the certificate the elector shall have the right to vote at the polling place where he is stationed during the polling day, instead of at the polling place of the polling subdivision where he would otherwise have been entitled to vote; but no such certificate shall entitle an elector to vote at such polling place unless he has been actually engaged as Deputy Returning Officer, Poll Clerk, or agent during the day of polling, or shall entitle an agent to vote who is disqualified under section 6 of this Act.

Application of
sub-ss. 1 and 2
limited.

(3) The preceding two sub-sections shall not apply to a municipality or territory for which there are no voters' lists or supplementary voters' lists, and no such certificate shall be issued to a person in respect of a claim to be a voter in any such municipality or territory.

Limitation of
number of
certificates to
agents of can-
didates.

(4) No Returning Officer shall, under a penalty of \$400, give to more than two agents of the same candidate at one polling place, a certificate under this section; and every such certificate shall name the polling place at which the agent is to be permitted to vote and the candidate for whom he is agent; nor shall a Returning Officer issue a certificate under this section except upon the personal or written request of the elector; and no such certificate shall be signed by the Returning Officer until the name, residence and occupation of the person to whom it is to be granted have been inserted therein.

Person receiv-
ing a certifi-
cate to take
oath of quali-
fication before
voting.

(5) No person who receives a certificate under this section whether as Deputy Returning Officer, Poll Clerk or agent, shall thereafter either at the polling place named in the certificate, or at any other polling place, vote at the election, until he has taken at the polling place where he proposes to vote, one or other of the oaths of qualification prescribed to be taken by voters, and any person violating the provisions of this sub-section shall be subject to a penalty of \$400; and every vote cast in contravention of this sub-section shall be null and void.

Before whom
oath to be
taken.

(6) The oath of the Deputy Returning Officer shall be taken before the Poll Clerk, and the oath of a Poll Clerk or agent shall be taken before the Deputy Returning Officer, as in the case of other voters.

Returning of-
ficer to keep a
list of persons
obtaining cer-
tificates.

(7) Every Returning Officer shall, before delivering the certificate, enter in a list (to be kept by him for a year after the election), the name and qualification of every person to whom he gives a certificate under this section, the polling place at which such person is, under the certificate, authorized to vote, and stating whether the certificate is granted to him as Deputy Returning Officer, Poll Clerk or agent; and if as agent, the name of the candidate for whom he is agent; the Returning Officer shall also in the list enter the name of every person applying for a

certificate to whom it is refused, with the ground of refusal, and if the last mentioned person claimed to be the agent of a candidate, the name of the candidate.

(8) The Deputy Returning Officer shall enter, or cause to be entered, in the proper schedule in the poll book, Form 7, the name, place of residence and occupation of every person (including himself if he so votes) voting under the authority of a certificate given under this section. The Deputy Returning Officer shall also shew in said schedule what form of oath was administered to such person in the following manner, namely, by entering in the said schedule opposite the name of such person, "Sworn, Form 16," or otherwise as the case may require.

Entry on list of persons voting under authority of a certificate.

(9) Every person proposing to vote by virtue of a certificate aforesaid, shall with his ballot paper deliver up to the Deputy Returning Officer the certificate, and the Deputy Returning Officer shall, at the close of the poll, enclose all the certificates received by him, in package (h) mentioned in section 116 of this Act. 55 V. c. 3, s. 87.

Certificate to be delivered to deputy returning officer by person voting.

95. In case of a Deputy Returning Officer voting at the polling place where he has been appointed to be Deputy Returning Officer, the Poll Clerk appointed to act at the polling place, or in the absence of the Poll Clerk any agent of a candidate authorized to be present, may administer to the Deputy Returning Officer the oath required by law to be taken by voters. 55 V. c. 3, s. 88.

Administration of oath to deputy returning officer voting at his polling place.

THE POLL.

96. The Deputy Returning Officer shall, immediately before the commencement of the poll, shew the ballot box to such persons as are present in the polling place, so that they may see that it is empty; and he shall then lock the box, and place his seal upon it in such manner as to prevent its being opened without breaking the seal; and he shall then place the box in the view of himself and of the persons entitled to be in the polling booth and who are there for the receipt of ballot papers, and shall keep it so locked and sealed. 55 V. c. 3, s. 89.

Deputy to shew box empty and lock and seal it.

97. Where a person claiming to be entitled to vote presents himself for the purpose of voting, the Deputy Returning Officer shall proceed as follows:—

Conduct of Deputy on tender of vote.

1. He shall ascertain that the name of such person is entered or purports to be entered, upon the voters' list in the poll book for the polling subdivision for which the Deputy Returning Officer is appointed to act.

Name.

- Recording.** 2. He shall enter or cause to be entered in the column of the voters' list in the poll book headed "Column for marks indicating that the voter has offered to vote," the initials of the person offering to vote.
- Oath.** 3. If such person takes the oath or affirmation required to be taken by voters in the manner directed by this Act, the Deputy Returning Officer shall enter, or cause to be entered, opposite such person's name, in the proper column of the voters' list in the poll book, the word "Sworn," or "Affirmed," according to the fact.
- Objection.** 4. Where the vote is objected to by a candidate or his agent, the Deputy Returning Officer shall enter the objection, or cause the same to be entered, in the voters' list, in the poll book by writing opposite the name of such person, in the proper column, the words "Objected to," stating at the same time by which candidate or on behalf of which candidate the objection has been made, by adding after the words "Objected to," the name only of such candidate.
- Refusal to take the oath.** 5. Where such person as aforesaid has been required to take the oath or affirmation, and refuses to take the same, the Deputy Returning Officer shall enter or cause to be entered opposite the name of such person, in the proper column of the voters' list in the poll book, the words "Refused to be sworn," or "Refused to affirm," according to the fact.
- Voter refusing to be sworn.** 6. No person who has refused to take the oath or affirmation required by law, when requested so to do, shall receive a ballot paper or be admitted to vote; and the vote of such person if taken and received shall be null and void; and the Deputy Returning Officer, for having taken and received such vote or caused the same to be taken and received, shall incur a penalty of \$200.
- Deputy to sign his name on ballot paper and counterfoil.** 7. Where the proper entries respecting the person so claiming to vote have been made in the voters' list in the poll book in the manner prescribed, the Deputy Returning Officer shall stamp or sign his name or initials upon the back of the ballot paper and upon the counterfoil; and he shall not put upon the said ballot paper any figure or mark, other than his name or initials. 55 V. c. 3, s. 90 (1-7).
- Exhibiting initials of deputy returning officer to persons present.** 8. The Deputy Returning Officer shall, if required by any candidate present or his agent, exhibit the name or initials signed or stamped by such Deputy Returning Officer upon the back of the ballot paper before handing the ballot paper to the voter.
- Voter may decline ballot not initialed.** 9. Any person desiring to vote may decline to receive a ballot paper which has not the name or initials of the Deputy Returning Officer signed or stamped upon it. 58 V. c. 4, s. 14 (1, 2).

10. The ballot paper shall be detached from the counterfoil and delivered to such person. Delivery of
ballot to voter.

11. The counterfoil shall be retained in the book by the Deputy Returning Officer, who shall write or otherwise mark upon the counterfoil the number prefixed to the name of such person upon the voters' list in the poll book; and opposite the name of such person in the voters' list in such poll book a mark shall be placed to denote that he has received a ballot paper, but not shewing the particular ballot paper which he has received. 55 V. c. 3, s. 90 (8, 9). Counterfoil,
to be retained.

98.—(1) The Deputy Returning Officer shall receive the vote of every person whose name he finds in the proper list of voters in the poll book furnished to him, provided that such person, if required by a candidate, or the agent of a candidate, or by the Deputy Returning Officer himself, takes the oath or affirmation hereinafter mentioned, which the Deputy Returning Officer is hereby empowered to administer. Persons on
voters' list to
be allowed to
vote, on taking
oath if re-
quired.

(a) Where the person offering to vote is a person who is entitled to vote without a property qualification the oath to be taken shall be in accordance with Form 16 in Schedule A hereto, unless in cities and towns where a board of registrars has prepared a list of manhood suffrage voters and the person offering to vote is entered in the poll book as entitled under manhood suffrage registration, in which case the oath to be taken shall be in accordance with Form 17 in the said Schedule, or unless in territory where there is no assessment roll and the Voters' List was prepared under Part III. of *The Ontario Voters' Lists Act*, in which case the oath to be taken shall be in accordance with Form 18 in the said Schedule. Ordinary
oaths.

(b) Where the person offering to vote is an unenfranchised Indian whose name appears on a Voters' List or poll book, he shall take the oath, Form 19 or Form 20 in the said Schedule. 55 V. c. 3, s. 91 (1); 57 V. c. 4, s. 53. See also 55 V. c. 2, s. 2. Oath of un-
enfranchised
Indian.

(c) Where the person offering to vote is a resident of an incorporated village which lies within two or more Electoral Districts and the Lieutenant-Governor in Council has issued a proclamation under section 12 of *The Revised Statute respecting Representation of the People in the Legislative Assembly* by reason of which the electors entitled to vote in the village are entitled to vote in the Electoral District in which they would have been entitled to vote if such village had not become incorporated, a change of residence from one part of the village Oath where
voter lives in
unincorpor-
ated village
belonging to
two districts.

Rev. Stat. c. 6.

to another, shall not deprive a person whose name is in the Voters' List of his right to vote; and in the oath to be administered to any such person desiring to vote, the words "and that you are still actually and in good faith a resident of and domiciled within this Village," shall be substituted for the words "and are now actually and in good faith a resident of and domiciled within this Electoral District." This provision shall also apply to the Village of Stouffville. R. S. O. 1887, c. 7. s. 12 (2); 60 V. c. 15, Sched. A (4).

(2) The expression "proper list of voters" in this section shall mean the list of voters to be used at an election to the Legislative Assembly within the meaning of sections 77 to 83 inclusive, of this Act; and no person entitled to vote as a manhood suffrage voter under the provisions of this Act shall be debarred from voting at any election under this Act because there is not entered after or opposite his name in the proper column of the voters' list in the poll book either the letters "M.F," or any other letters, description, matter, or particular required, or directed to be entered after or opposite his name in any such column either by this Act or any other Act whatsoever.

(3) Except as in this Act otherwise specially provided, no other oath or affirmation shall be required of a person whose name is entered on any such list of voters as aforesaid. 55 V. c. 3, s. 91 (2, 3).

[For special provisions as to the votes of persons entitled to vote on certificate of the Board of Appeal under "The Manhood Suffrage Registration Act," and providing for the erasure from the list of the names of the persons who are struck off on appeal under that Act, see Chap. 8, sec. 28 (4, 5), and sec. 30. For additional oaths in case of Indians, see supra sec. 15.]

Deputy Returning Officer must swear voters in certain cases.

Penalty.

99. Whenever a Deputy Returning Officer has reason to know or believe that fraud or violence is being practised in violation of the rights of electors, by which undue votes are tendered, or that a person offering to vote is not qualified, or has already voted at the election and offers to vote again, or tenders his vote under a false name or designation, or personates or represents himself falsely as being on the list of voters in the poll book, the Deputy Returning Officer, under a penalty of \$200, shall administer the oath authorized by law to the voter, whether he be required to do so or not by any party; and mention thereof shall be made in the list of voters as aforesaid. 55 V. c. 3, s. 94.

Deputy to conceal number on the ballot paper.

100. The Deputy Returning Officer shall take all necessary precautions for concealing, and shall conceal, as far as possible, from all persons present (including the Poll Clerk and the

agents of the candidates, as well as all other persons), the number printed upon the ballot paper delivered to any person, and upon the counterfoil which was attached thereto, and shall not permit the counterfoil to be inspected by any person. 55 V. c. 3, s. 95.

101. The Deputy Returning Officer may, and upon request shall, either personally or through his Clerk, explain to the person offering to vote, as concisely as possible, the mode of voting, and the colours in which the numbers and names of candidates are printed on the ballot paper. 55 V. c. 3, s. 96.

Deputy to explain mode of voting.

102. Whenever an elector does not understand the English language, the Deputy Returning Officer may employ an interpreter to translate the oath or affirmation required of the elector, as well as any lawful questions necessarily put to him, and his answers; and the interpreter shall take before the Deputy Returning Officer the oath (or, if he be one of the persons permitted by law to affirm in civil cases, the affirmation) following:

Interpreter may be employed in certain cases.

“I swear (or affirm) that I will faithfully translate such oaths, declarations, questions and answers as the Deputy Returning Officer shall require me to translate at this election: So help me God.”

Oath.

55 V. c. 3, s. 97.

103. Upon receiving from the Deputy Returning Officer the ballot paper so prepared as aforesaid, the person receiving the same shall forthwith proceed into one of the compartments provided for the purpose, and shall then and therein mark his ballot paper in the manner mentioned in the directions contained in Form 12 in Schedule A to this Act, by placing a cross thus \times , on the right hand side, opposite the name of the candidate for whom he desires to vote, or at any other place within the division which contains the name of such candidate; and he shall then fold the ballot paper across so as to conceal the names of the candidates, and the mark upon the face of such paper, and so as to expose the initials of the Deputy Returning Officer, and the number on the back, and leaving the compartment, shall, without delay, and without shewing the front to any one, or so displaying the ballot paper as to make known to any person the name of the candidate for or against whom he has marked his vote, deliver the ballot paper so folded to the Deputy Returning Officer, who shall, without unfolding the same, or in any way disclosing the names of the candidates, or the mark made by the elector, verify his own initials, and the number on the back of the paper, and at once deposit the same in the ballot box in the presence of all persons entitled to be present, and then present in the polling place; and the voter shall forthwith leave the polling place. 55 V. c. 3, s. 98.

Voter marking ballot paper.

Exclusion
from balloting
compartment.

104. While a voter is in a balloting compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment, or to be in any position from which he can observe the mode in which the voter marks his ballot paper. 55 V. c. 3, s. 99.

Voter not to
take his paper
from polling
place, etc.

105. No person who has received a ballot paper or tendered ballot paper from the Deputy Returning Officer shall take the same out of the polling place; and a person having so received a ballot paper or tendered ballot paper, who leaves the polling place without first delivering the same to the Deputy Returning Officer in the manner prescribed, shall thereby forfeit his right to vote, and the Deputy Returning Officer shall make an entry in the voters' list, in the poll book in the column for remarks, to the effect that such person received a ballot paper, but took the same out of the polling place, or returned the same declining to vote, as the case may be, and in the latter case the Deputy Returning Officer shall immediately write the word "Declined" upon the ballot paper, and shall preserve it to be returned to the Returning Officer. 55 V. c. 3, s. 100.

Proceedings in
case of incapacity
to mark
paper.

106. In case of an application by a person claiming to be entitled to vote, who is unable to read or who is incapacitated by blindness or other physical cause from marking his ballot paper, and in case such person makes a declaration that he is unable to read or that he is incapacitated as aforesaid the proceedings shall be as follows:—

1. The Deputy Returning Officer shall, in the presence of the agents of the candidates, cause the vote of such person to be marked on a ballot paper in manner directed by such person, and shall cause the ballot paper to be placed in the ballot box.

2. The Deputy Returning Officer shall state or cause to be stated in the poll book by an entry opposite the name of such person in the proper column, that the vote of such person is marked in pursuance of this section, and the reason why it is so marked; he shall also make a corresponding entry in Form 9 in said poll book, and in the proper columns thereof, giving the name and number of such person in the poll book and the cause of inability.

3. The declaration of inability to read or mark a ballot paper may be according to Form 23 in Schedule A to this Act, and shall be made by the person claiming to be entitled to vote, at the time of the polling, before the Deputy Returning Officer, who shall attest the same as nearly as may be according to Form 24 in Schedule A to this Act, and the said declaration shall be given to the Deputy Returning Officer at the time of voting. 55 V. c. 3, s. 101.

Proceedings in
case an elec-
tor applies for
a paper after

107. If a person representing himself to be a particular elector named on the list of voters in the poll book applies for

a ballot paper after another person has voted as such elector, the applicant shall, upon duly taking the oath authorized by law to be administered to voters at the time of polling, be entitled to mark a tendered ballot paper; the tendered ballot paper shall be given to the Deputy Returning Officer, and shall be placed by him in an envelope, which shall be securely sealed, and upon the envelope he shall make an endorsement indicating the election at which, and the polling subdivision in which the same is used, and the Deputy Returning Officer shall then deposit the envelope in the ballot box; and the vote upon the tendered ballot paper shall not be counted by the Deputy Returning Officer; and the name and number on the voters' list aforesaid of such person shall be endorsed upon the counterfoil by the Deputy Returning Officer; and the Deputy Returning Officer shall, in the proper schedule in the poll book, being Form 8 in such poll book, enter the name of such person and his number on the list of voters aforesaid or cause the same to be so entered. 55 V. c. 3, s. 102.

another has
voted as such
elector.

108. If a person whose name is not entered on the list of voters in the poll book delivered to the Deputy Returning Officer claims that his name is on the voters' list, or on one of the copies of the voters' list certified by the Judge, and has been by mistake or otherwise omitted from the list in the poll book delivered to the Deputy Returning Officer, such person shall, upon duly taking an oath according to Form 25 in Schedule A to this Act, or to the like effect, be entitled to mark a tendered ballot paper; and such tendered ballot paper, instead of being put into the ballot box, shall be given to the Deputy Returning Officer, and shall be placed by him in an envelope and deposited in the ballot box, in the manner directed by the last preceding section with reference to the ballot papers marked in pursuance thereof; and the tendered ballot paper shall not be counted by the Deputy Returning Officer; and the name, place of residence and occupation or calling of such person shall be endorsed upon the counterfoil by the Deputy Returning Officer; and the Deputy Returning Officer shall enter or cause to be entered in the proper schedule in the poll book being Form 8 in such book, the name, place of residence and occupation or calling of such person. 55 V. c. 3, s. 103.

Proceedings in
case a person
claims to
vote and that
his name has
been improp-
erly omitted
from list of
voters.

109. A person claiming to be entitled to vote, who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used as a ballot paper, may, on delivering to the Deputy Returning Officer the ballot paper so inadvertently dealt with, and proving the fact of the inadvertence to the satisfaction of the Deputy Returning Officer, obtain another ballot paper in the place of the ballot paper so delivered up, and the Deputy Returning Officer shall immediately write the word "Cancelled" upon the ballot paper and upon the

Proceedings in
case ballot
paper spoiled
so that it can-
not be used

counterfoil, and preserve the ballot paper to be returned to the Returning Officer. 55 V. c. 3, s. 104.

What shall be deemed a tender of a vote, and a voting.

110. Every person applying for a ballot paper under this Act shall be deemed to tender his vote, or to offer or assume to vote; and any person shall be deemed to have voted who has put his ballot paper into the ballot box, or has caused the same to be put into the ballot box, or has delivered the same to the Deputy Returning Officer or Poll Clerk, for the purpose of having the same put into the ballot box. 55 V. c. 3, s. 104*a*.

Who may be present at polling place.

111. During the time appointed for polling no person shall be entitled or permitted to be present in a polling place, other than the officers, candidates, clerks or agents authorized to attend at such polling place, and such persons as are for the time being actually engaged in voting; but it shall at all times be lawful for the Deputy Returning Officer to have present, or to summon to his assistance in the polling place, any police constable or peace officer for the purpose of maintaining order, or of preserving the public peace, or preventing a breach thereof, or of removing any person or persons who may, in the opinion of the Deputy Returning Officer, be obstructing the polling or wilfully violating any of the provisions of this Act. 55 V. c. 3, s. 105.

PROCEEDINGS AFTER THE CLOSE OF THE POLL.

Counting of votes.

112. Immediately after the close of the poll in every polling place, the Deputy Returning Officer shall, in the presence of the Poll Clerk, and of such of the candidates or of their agents as may then be present, open the ballot box, and proceed to count the votes as follows:—

Ballot papers to be examined.

1. He shall examine the ballot papers, to ascertain if they are the ballot papers which he supplied, and such examination shall be made and completed before opening any of the ballot papers, and for the purpose of so ascertaining he shall, after opening the ballot box proceed first to count the whole number of ballot papers in the box without opening any of them, and if the number corresponds with, or does not exceed the number of persons who voted, no further examination to ascertain as aforesaid shall be made. If the number of ballot papers in the box exceeds the number of persons who voted he shall, without opening the ballot papers, examine the backs thereof so far as may be necessary to see his name or initials, and shall, except as provided in the next subsection, reject any papers not having thereon his name or initials. After such examination is completed to the extent necessary he shall proceed to examine the ballot papers, (or the ballot papers not rejected, as the case may be) in order to count up the votes given for each candidate, keeping the ballot papers with their

Deputy returning officer not to open ballots while counting or examining numbers

printed faces upwards, and taking all precautions not to see or to permit any person to see the number printed on the back of any paper. 55 V. c. 3, s. 106 (1).

2. Where upon counting the whole number of ballot papers it is found that the number of ballot papers is the same as the number which has been given by the Deputy Returning Officer to, and which were used by voters, the omission of the Deputy Returning Officer to sign or stamp his name or initials on some of such ballot papers shall not be a ground for the rejection of the same. 58 V. c. 4, s. 15.

When uninitialed ballot not to be rejected.

3. Every ballot paper which has not been supplied by the Deputy Returning Officer, or on which votes are given to more candidates than are to be elected, or on which anything in addition to the printed number and the initials or name of the Deputy Returning Officer on the back is written or marked, by which the voter can be identified, shall be void and shall not be counted; but, subject to the provisions hereinbefore in this section contained as to the omission of the Deputy Returning Officer to sign or stamp his name or initials upon a ballot paper, no word or mark written or made, or omitted to be written or made, by the Deputy Returning Officer, on a ballot paper, shall avoid the same.

Ballot papers which are not to be counted

4. The Deputy Returning Officer shall take a note in Form 10 in the poll book of any objection made by a candidate, or by his agent, or by any elector present, to any ballot paper found in the ballot box, and shall decide any question arising out of the objection; and the decision of the Deputy Returning Officer shall be final, subject only to reversal on a recount by the County Court Judge, or on petition questioning the election or return.

Objections to ballot papers.

5. Every objection to a ballot paper shall be numbered, and a corresponding number shall be placed on the back of the ballot paper, and shall be initialed by the Deputy Returning Officer.

Objections to be numbered.

6. The Deputy Returning Officer shall endorse "Rejected" on every ballot paper which he may reject as invalid, and shall endorse "Rejection objected to," if any objection be made to his decision.

Rejected ballots to be endorsed.

7. The Deputy Returning Officer shall then count up the votes given for each candidate upon the ballot papers not rejected, and make up a written statement, according to Form 21 in Schedule A hereto, being Form 11 in the poll book, of the number of votes given for each candidate, and of the number of ballot papers rejected and not counted by him, and the number of those rejected shall be entered in said poll book under the several heads following:—

Statement of result.

(a) Number of papers rejected as wanting signature or initials of Deputy Returning Officer;

Contents of statement of Deputy Returning Officer.

- (b) Number of papers rejected as voting for more candidates than entitled to ;
- (c) Number of papers rejected as having a writing or mark by which voter could be identified ;
- (d) Number of papers rejected as unmarked or void for uncertainty ;

and the said statement shall also show the total number of persons who have voted at such polling place and shall forthwith be signed by the Deputy Returning Officer and poll clerk and such of the candidates or their agents as may be present and desire to sign it. 55 V. c. 3, s. 106 (2-6).

Only two agents for a candidate may be present.

113. No more than two agents for a candidate shall be entitled to be present at the same time at the counting of the votes. 55 V. c. 3, s. 107.

Deputies to certify the number of voters.

114. Every Deputy Returning Officer shall, at the close of the poll, certify over his signature in Form 11 in the poll-book in full words, the total number of persons who have voted at the polling place at which he has been appointed to preside. 55 V. c. 3, s. 108.

Certificates of the state of poll

115. At the close of the poll the Deputy Returning Officer, on being requested so to do, shall deliver to each of the candidates, or their agents, or in the absence of the candidates or agents, to the electors present representing the candidates respectively, a certificate of the number of votes given for each candidate, and of the number of rejected ballot papers, and he shall also forthwith make out the ballot paper account in the form required by section 118 of this Act. 55 V. c. 3, s. 109.

Deputy Returning Officer's duties after votes are counted.

116 — (1) Every Deputy Returning Officer, at the completion of the counting of votes after the close of the poll, shall, in the presence of the agents of the candidates, make up into separate packets, sealed with his own seal, and the seals of such agents of the candidates as desire to affix their seals, and marked upon the outside with the proper letter of the alphabet and a short statement of the contents of the packet, as in this section mentioned, the date of the day of the election, the name of the Deputy Returning Officer, and the polling subdivision and Electoral District :

- (a) The used ballot papers which have not been objected to and have been counted ;
- (b) The ballot papers which have been objected to but which have been counted ;
- (c) The rejected ballot papers ;
- (d) The unused ballot papers and the counterfoils of the ballot papers ;

- (e) The spoiled ballot papers ;
- (f) The tendered ballot papers ;
- (g) The ballot papers given to voters who afterwards returned the same, declining to vote ;
- (h) The declarations of "Inability to read" and "Physical incapacity" taken under section 106 of this Act, with the attestations thereto and all certificates received by the Deputy Returning Officer including any certificate issued to a voter under section 28 of *The Manhood Suffrage Registration Act*. 55 V. c. 3, s. 110 (a-h); 57 V. c. 4, s. 31 (5). Rev. Stat. c. 8.

(2) After all the oaths have been taken and subscribed and all the entries made in the poll book as by this Act required, the Deputy Returning Officer shall in the presence of the candidates or their agents enclose the said poll-book in a separate packet and write thereon the words "Poll book" and also the date of the election, the name of the Deputy Returning Officer, the name or number of the polling subdivision, the municipality, and the electoral district. 55 V. c. 3, s. 110 *i*.

117. The Deputy Returning Officer shall forthwith deliver the packets personally to the Returning Officer; and if he be unable to do so, owing to illness or other cause, he shall deliver the packets to a person chosen by him for the purpose of delivering the same to the Returning Officer; and shall mention on the outside of the cover of each of the packets the name of the person to whom the same had been so delivered, and shall take a proper receipt therefor, and the person so chosen shall after having delivered the said packets to such returning officer, make oath before him to the effect of Form 29 in Schedule A hereto. 55 V. c. 3, s. 111. Certain packets to be delivered to the Returning Officer.

118. The poll book shall contain a statement made by the Deputy Returning Officer, shewing the number of ballot papers entrusted to him, and accounting for them under the heads of (1) Counted; (2) Rejected; (3) Unused; (4) Spoiled; (5) Tendered ballot papers; (6) Ballot papers given to voters, who afterwards returned the same, declining to vote; and (7) Ballot papers taken from the polling place; which statement shall be in Form 22 in Schedule A hereto, and being Form 12 in the poll book, and is in this Act referred to as the "Ballot Paper Account." 55 V. c. 3, s. 112. Ballot Paper Account.

119. No Returning Officer or Deputy Returning Officer shall grant, make or enter into a scrutiny of the votes given at an election. 55 V. c. 3, s. 113. No scrutiny by Returning Officers.

Oath to be
made by
Deputy
Returning
Officer on
close of poll.

120. The Deputy Returning Officer who has kept and closed the poll, shall, immediately after the closing thereof make and subscribe, either before a Justice of the Peace for the County or District where he resides, or before the Returning Officer or the Poll Clerk, the oath, Form 26 in Schedule A to this Act, and being Form 13 in the poll book. 55 V. c. 3, s. 114.

Oath to be
made by Poll
Clerk on
close of poll.

121. Every Poll Clerk shall, immediately after the close of the poll at which he has acted, make and subscribe, either before a Justice of the Peace for the County or District in which he resides, or before the Deputy Returning Officer, or before the Returning Officer the oath, Form 27 in Schedule A to this Act, and being Form 14 in the poll book. 55 V. c. 3, s. 115.

Delivery of
ballot boxes
to Clerk of
Municipality.

122. Within one week after the close of the election, every Deputy Returning Officer shall deliver the ballot box used in his polling subdivision to the Clerk of the Municipality within which the polling subdivision is situate; and the ballot boxes delivered to the Clerk shall be preserved by him for use at future elections for the Electoral District. 55 V. c. 3, s. 116.

Counting of
the votes by
the Returning
Officer.

123.—(1) The Returning Officer, after he has received the packets before mentioned, shall, at the place and time named from the hustings for this purpose when granting a poll, open the packets containing the several poll books and shall not open any other of the sealed packets, and from the statements of the poll contained in Form 11 of the said several poll books shall cast up the number for each candidate; and as soon as he has thus ascertained the result of the poll, he shall forthwith declare to be elected the candidate having the highest number of votes.

Casting vote.

(2) Where an equality of votes is found to exist between the candidates, and the addition of a vote would entitle any of the candidates to be declared elected, the Returning Officer may give an additional vote, but shall not in any other case be entitled to vote at an election for which he is Returning Officer. 55 V. c. 3, s. 117.

RECOUNT OF BALLOTS.

Recount of
votes by the
County Judge.

124.—(1) In case it is made to appear on the affidavit of a credible witness, to the County Judge of any County in which the Electoral District or any part thereof is situated, at any time before the Returning Officer makes his return, that a Deputy Returning Officer at an election in the Electoral District has in counting the votes improperly counted or rejected any ballot papers, the County Judge may, where the majority for the successful candidate is under fifty votes, appoint a time, within the time hereinafter limited, to recount

the votes, and shall give notice in writing to the candidates or their agents of the time and place at which he will proceed to recount the same.

(2) Where there is a District Judge, the application for a recount shall be made to him, or to one of the District Judges if there are more than one having jurisdiction in the Electoral District or some part thereof; and those sections of this Act which provide for or regulate a recount by a County Judge, shall apply to a recount by a District Judge.

Recount
by District
Judge.

(3) The affidavit required in order to obtain a recount of votes, may be made before either a commissioner for taking affidavits, or a Justice of the Peace, or the Election Clerk.

Before whom
affidavit for
recount may
be made.

(4) The application for the appointment is to be made within four days after the Returning Officer has, under section 123, cast up the number of votes for each candidate, and, subject to a recount, ascertained the result of the poll, and declared the candidate having the highest number of votes.

Time within
which applica-
tion to be
made.

(5) The time appointed for the recount shall not be more than four days from the date of the appointment.

Time ap-
pointed for
recount.

(6) Notice of the time appointed for the recount shall be served on the candidates appearing to be elected or their agents not less than two days before such time, or within such other time as the Judge may direct.

Notice of
recount.

(7) The Judge may require the Clerk of the County or District Court, as the case may be, to be present at any recount of votes. 55 V. c. 3, s. 118.

Attendance of
Clerk of
Court.

125. The County Judge, the Returning Officer and his Election Clerk, and the candidates, and one agent for each candidate, appointed in writing by the candidate to attend, shall be entitled to be present during the proceedings and if any candidate is not present in person two agents for such candidate, appointed as aforesaid, shall be entitled to be present; and, except with the sanction of the County Judge, no other person shall be present at such recount of the votes. 55 V. c. 3, s. 119.

Who may be
present on
recount.

126. At the time and place appointed, the County Judge shall proceed to recount all the votes or ballot papers returned by the several Deputy Returning Officers, and shall, in the presence of the parties aforesaid, if they attend, open the sealed packets containing—(1) The used ballot papers which have not been objected to and which have been counted; (2) The ballot papers which have been objected to but which have been counted; (3) The rejected ballot papers; (4) The spoiled ballot papers, and no other ballot papers or counterfoils; and in recounting the votes care shall be taken that the mode in which any particular elector has voted shall not be discovered. 55 V. c. 3, s. 120.

Conduct of
re-count.

The recount
to be a con-
tinuous pro-
ceeding.

127. The County Judge shall, as far as practicable, proceed continuously with the recount of the votes, allowing only time for refreshment, excluding only Sundays and, on other days (except so far as he and the parties aforesaid agree), the hours between six o'clock in the evening and nine on the succeeding morning. During the excluded time the County Judge shall keep the ballot papers and other documents relating to the election under his own seal and the seals of such other of the parties as desire to affix their seals, and shall otherwise take precautions for the security of such papers and documents. 55 V. c. 3, s. 121.

Procedure on
recount.

128.—(1) The County Judge shall proceed to recount the votes according to the rules set forth in sections 112 and 113 of this Act, and shall verify or correct the ballot paper account and statement of the number of votes given for each candidate; and upon the completion of such recount, or as soon as he has thus ascertained the result of the poll, he shall seal up all the ballot papers in separate packets, and shall certify the result to the Returning Officer, who shall then declare to be elected the candidate having the highest number of votes, and in case of an equality of votes, the Returning Officer shall have the casting vote, as provided in section 123 of this Act. 55 V. c. 3, s. 122; 60 V. c. 14, s. 38 (7).

(2) The Judge shall delay sending his certificate to the returning officer for two days after the completion of the recount in order to allow of an appeal as hereinafter provided.

(3) In case no notice of appeal is given to the County or District Judge within two days after the completion of the recount, the Judge shall certify the result to the returning officer forthwith. 60 V. c. 14, s. 38 part.

Appeal from
decision of
judge on re-
count.

129.—(1) In case either of the candidates desires to appeal from the decision of the County or District Judge on a recount he may do so by giving notice in writing to the other candidate and to the Judge of his intention within two days after the completion of such recount, and he may by the notice limit the appeal to certain specified ballots. The notice may be served upon the candidate personally, or upon the solicitor who acted for him upon the recount by leaving the notice with such solicitor personally or at his office.

(2) Where the appeal is limited as aforesaid the County or District Judge shall seal up the ballot papers which are the subject of appeal in a separate packet and shall forward the same together with the notice and a certificate showing his findings as to the ballots in dispute by registered letter to the Registrar of the Court of Appeal, but if the appeal is not limited then the Judge shall forward all the ballots and other papers to the Registrar in manner aforesaid, and shall await the result of the appeal before sending his certificate to the

Returning Officer under section 128. The Judge shall upon request allow each party to make a copy of the certificate of his findings before the same is forwarded to the Registrar of the Court of Appeal.

(3) On receipt of the ballots and notice the Registrar shall forthwith obtain an appointment from one of the Judges of the Court of Appeal for proceeding with the matter and shall inform the parties or their solicitors of the time so appointed.

(4) The time appointed for hearing the appeal shall be not more than four days from the date of the appointment.

(5) At the time appointed the Judge shall proceed to recount the ballots or such of them as are the subject of appeal, and shall forthwith certify his decision to the County or District Judge, and it shall be the duty of such Judge to conform to the said decision, and to certify the result of the recount without delay to the Returning Officer in accordance therewith.

(6) The Judge of the Court of Appeal may direct by and to whom the costs of the appeal shall be paid, and shall make his order accordingly. Costs of appeal. 60 V. c. 14. s. 38 part.

130. The Returning Officer, after the receipt of a notice from the County Judge of such recount of ballots, shall delay making his return to the Clerk of the Crown in Chancery until he receives a certificate from the County Judge of the result of the recount, and upon receipt of such certificate the Returning Officer shall proceed to make his return as provided in this Act. Returning Officer not to make return till receipt of certificate from County Judge. 55 V. c. 3, s. 123.

131. In case of a recount of votes or ballot papers under the preceding seven sections of this Act, the Returning Officer shall, on a written notice from the Judge, produce the ballot papers at the time and place appointed for the recount, and the same shall continue in the custody of the Returning Officer; and he shall continue to be responsible therefor, subject to any directions which the Judge may give in respect of the said ballot papers. Production and custody of ballot papers on a recount. 55 V. c. 3, s. 124.

PROCEEDING IN CASE OF LOSS OR INJURY OF VOTERS' LIST OR OTHER DOCUMENTS.

132.—(1) In case a poll book or part thereof is stolen or taken from its lawful place of deposit for the time being, or has been lost or destroyed, or otherwise placed beyond the reach of the Deputy Returning Officer to whom the custody of such poll book for the time being belonged, at any time before he has made his return of the same to the Returning Officer, the Deputy Returning Officer shall attend personally on the Returning Officer, and report to him the fact of the loss of the said poll book or any part thereof; and the Poll Clerk Proceedings in case poll book is stolen, etc.

of the Deputy Returning Officer, so soon as he is informed of the loss personally or by letter, either by or from the Deputy Returning Officer, or by the Returning Officer himself, or has other good reasons for believing that the loss has occurred, shall forthwith attend personally on the Returning Officer.

Examination
of Deputy Re-
turning Officer
and Poll
Clerk, etc.

(2) The Returning Officer shall examine the Deputy Returning Officer and Poll Clerk upon oath or affirmation, as the occasion may require, as to the loss of the said poll book and the contents thereof, which examination shall be taken down by him in writing and shall be subscribed by the Deputy Returning Officer and Poll Clerk, and annexed to the return in lieu of the poll book.

Punishment of
Deputy Re-
turning Officer
or Poll Clerk
refusing to at-
tend or be
sworn.

(3) If either the Deputy Returning Officer or the Poll Clerk omits to attend on the Returning Officer as hereby required, or refuses to be sworn by the Returning Officer or to affirm as aforesaid, he shall incur a penalty of \$200, and in case of his refusal to be sworn or to affirm as aforesaid, he may be committed by the Returning Officer to the common gaol of the County or District, until thence discharged by an order in that behalf made by the Legislative Assembly. 55 V. c. 3, s. 125.

Duty of Re-
turning Officer
believing any
election docu-
ments to be al-
tered, etc.

133. When the Returning Officer, having received a poll book or any other document connected with the election has reason to believe that the same has been altered, injured or obliterated, or that additions have been made thereto, he shall establish the true facts in the manner above provided in case of the loss of a poll book. 55 V. c. 3, s. 126.

RETURN, PRESERVATION OF DOCUMENTS, ETC.

Time within
which return
to be made
to Clerk
of the Crown
in Chancery.

134. The Returning Officer shall make and transmit his return to the Clerk of the Crown in Chancery :

(a) Where the majority of the successful candidate is over fifty, within ten days after he has ascertained the result of the poll, and

(b) Where the majority of the successful candidate is under fifty, after the fifth day from the day on which he receives the last return of any Deputy Returning Officer, and within ten days after he has ascertained the result of the poll, unless he has received a notice from the County Judge of a recount of ballots, in which case he shall delay making his return until he receives a certificate from the County Judge of the result of the recount, and upon receipt of the certificate the Returning Officer shall proceed to make his return. 55 V. c. 3, s. 127.

Returning
Officer to
transmit to
Clerk of the
Crown in

135.—(1) The Returning Officer shall at the same time transmit to the Clerk of the Crown in Chancery, enclosed in a box or other covering, sealed with the seal of the Returning Officer, all the packets of ballot papers in his possession,

declarations of inability to read or mark, packets of counter-foils, poll book and all other documents sent by the Deputy Returning Officers, endorsing on the package a description of its contents, and the date of the election to which they relate, and also the name of the Electoral District for which the election was held; and the return and the package, so directed as aforesaid to be transmitted to the Clerk of the Crown in Chancery, may be transmitted by express or through the post-office, after having been duly registered. 55 V. c. 3, s. 128.

Chancery
the ballot
papers, etc.

(2) An oath to the effect set forth in Form 30 in Schedule A to this Act shall be taken by every Returning Officer forthwith after transmitting his return to the Clerk of the Crown in Chancery, and the said oath shall be thereupon forthwith transmitted by him to the Clerk of the Crown in Chancery, by post and in an envelope duly registered. 55 V. c. 3, s. 128a.

Oath of Re-
turning Officer
after transmit-
ting return.

136. The Returning Officer shall also, before transmitting his return to the Clerk of the Crown in Chancery, upon application, deliver to each of the candidates, or their agents, or if no application is made, shall, within the same period, transmit by mail to each candidate a duplicate of the return, which duplicate shall stand in lieu of an indenture. 55 V. c. 3, s. 129.

Returning
Officer to
transmit
duplicate of
return to
each candi-
date.

137. The Clerk of the Crown in Chancery shall retain for the period of one year all documents relating to an election forwarded to him by a Returning Officer, in pursuance of this Act, and then, unless otherwise directed by a rule or order of the Court of Appeal or a Judge thereof, or a Judge on the rota for the trial of election petitions, he shall destroy the same by fire. 55 V. c. 3, s. 130.

Clerk of Crown
in Chancery
(unless other-
wise ordered)
to destroy
election
documents
after one year.

138. If a Returning Officer wilfully delays, neglects or refuses duly to return to serve in the Legislative Assembly for an Electoral District, a person who ought to be so returned, such person may, in case it has been determined on the hearing of an election petition under *The Ontario Controverted Elections Act*, that such person was entitled to have been returned, sue the Returning Officer for having so wilfully delayed, neglected, or refused duly to make the return of his election in any Court of Record in Ontario, and shall recover double the damages he has sustained by reason thereof, together with full costs of suit, provided the action be commenced within one year after the commission of the act on which it is grounded, or within six months after the conclusion of the trial relating to the election. 55 V. c. 3, s. 131.

Returning
Officer may
be sued for
neglecting to
return any
person duly
elected.

Rev. Stat. c.
11.

PUBLICATION OF RETURN.

139. The Clerk of the Crown in Chancery shall, on receiving the return of a member elected to the Legislative As-

Notice of re-
turn in *Ontario
Gazette*.

sembly, give in the next ordinary issue of the *Ontario Gazette*, notice of the receipt of the return, the date of such receipt, and the name of the candidate elected. 55 V. c. 3, s. 132.

INSPECTION OF DOCUMENTS.

Inspection of
rejected ballot
papers, etc.

140. No person shall be allowed to inspect rejected ballot papers or ballot papers objected to under section 112 of this Act in the custody of the Clerk of the Crown in Chancery, except under an order of the Court of Appeal or a Judge thereof, or of a Judge on the rota for the trial of election petitions; such rule or order to be granted by the Court or Judge on being satisfied by evidence on oath that the inspection or production of the ballot papers is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of a petition questioning an election or return; and the order for the inspection or production of ballot papers may be made, subject to such conditions as to persons, time, place, and mode of inspection or production, as the Court or Judge making the same may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery. 55 V. c. 3, s. 133.

Inspection of
counterfoils
and counted
ballot papers.

141.—(1) No person shall, except by order of the Court or Judge as aforesaid, open the sealed packets of counterfoils, after the same have been once sealed up; and no person shall, except by order of a tribunal having cognizance of petitions complaining of undue returns or undue elections, be allowed to inspect the counted ballot papers (other than ballot papers objected to under section 112 of this Act) in the custody of the Clerk of the Crown in Chancery; and the orders may be made subject to such conditions as to persons, time, place, and mode of opening or inspection as the Court, Judge, or tribunal, making the order may think expedient, and shall be obeyed by the Clerk of the Crown in Chancery.

(2) On making and carrying into effect any such order, care shall be taken that the mode in which any particular elector has voted be not discovered until he has been proved to have voted, and his vote has been declared by a competent tribunal to be invalid. 55 V. c. 3, s. 134.

Inspection of
other docu-
ments.

142. All documents forwarded by a Returning Officer in pursuance of this Act, to the Clerk of the Crown in Chancery, other than ballot papers and counterfoils, shall be open to public inspection, at such time and under such regulations as may be prescribed by the Clerk of the Crown in Chancery with the consent of the Speaker of the Legislative Assembly; and the Clerk of the Crown in Chancery shall supply copies of or extracts from the documents to any person demanding the same, on payment for the same at the rate of ten cents for each folio of one hundred words, and in computing the number

of words in the copy or extract every figure shall be counted as a word. 55 V. c. 3, s. 135.

143. Where an order is made for the production by the Clerk of the Crown in Chancery of any document in his possession relating to a specified election, the production of the document by the Clerk or his agent, in such manner as may be directed by the order, shall be conclusive evidence that the document relates to the specified election; and any endorsement appearing on any packet of ballot papers produced by the Clerk of the Crown in Chancery or his agent, shall be evidence of the papers being what they are stated to be by the endorsement; and the production from proper custody of a ballot paper purporting to have been used at an election, and of a counterfoil marked with the same printed number, and having a number marked thereon in writing, shall be deemed *prima facie* evidence that the person who voted by the ballot paper was the person who, at the time of the election, had prefixed to his name in the list of voters in the poll book used for the polling subdivision in which he voted at the election, the same number as that written on such counterfoil; or in the case of tendered ballot papers marked in the manner hereinbefore provided by persons not named in the list of voters aforesaid, the production, from the proper custody, of any such ballot paper, purporting to have been used at an election, and of a counterfoil, marked with the same printed number, and having a name written thereon (other than the name of the Deputy Returning Officer), shall be deemed *prima facie* evidence that the person who voted by the ballot paper was the person whose name was so written as aforesaid on the counterfoil. 55 V. c. 3, s. 136.

Evidence as to documents, ballot papers, etc., in certain cases.

PRESERVATION OF THE PEACE AT ELECTIONS.

144. From the time when a Returning Officer or Deputy Returning Officer has taken and subscribed the oath of office until the day next after the final closing of the polls at the election, the Returning Officer and every Deputy Returning Officer, shall respectively be conservators of the peace, and for the maintenance of the peace, and for the arrest, detention, or admission to bail, trial and conviction of any person or persons who break the law or trouble the peace shall be invested with the same powers with which Justices of the Peace are invested in this Province. 55 V. c. 3, s. 137.

Returning Officer and Deputies to be conservators of the peace.

145. Any Returning Officer or Deputy Returning Officer may require the assistance of all Justices of the Peace, constables, and other persons present at the election, whether at the place of holding the election, or at any polling place, to aid him in the maintenance of the peace and of good order at the election, and may also swear in as many special constables as he deems necessary. 55 V. c. 3 s. 138.

Justices, etc., may be required to aid in keeping the peace

Special constables to be sworn in in certain cases.

146. On a requisition in writing made by a candidate or by his agent, or by any two or more electors, a Returning Officer or Deputy Returning Officer shall swear in such special constables. 55 V. c. 3, s. 139.

Returning Officer or Deputy may order arrest of persons disturbing the peace.

147. Any Returning Officer or Deputy Returning Officer may arrest or cause to be arrested, by verbal order, and may place in the custody of one or more constables or other persons, for such time as in his discretion he deems expedient, any person disturbing the peace and good order, or may cause such person to be imprisoned for any such offence, under an order signed by him, for a period not later than the final closing of the election or of the poll, respectively; which order all persons shall obey without delay under a penalty of \$20 for any refusal or neglect so to do. 55 V. c. 3, s. 140.

Penalty.

Such arrest not to prevent other punishment.

148. No such arrest, detention or imprisonment shall in any manner exempt the person so arrested, detained, confined or imprisoned, from any punishment or penalty to which he has become liable by reason of anything by him done contrary to the true intent and meaning of this Act or otherwise. 55 V. c. 3, s. 141.

Returning Officer or Deputy may demand surrender of all weapons.

149. A Returning Officer or Deputy Returning Officer may, during any part of the day whereon an election is to be begun, holden or proceeded with, or on which a poll for an election is to be begun, holden or proceeded with, demand and receive from any person whomsoever, any offensive weapon, such as firearms, swords, staves, bludgeons or the like, with which any such person is armed, or which any such person has in his hands or personal possession; and every person who upon demand declines or refuses to deliver up to the Returning Officer or Deputy Returning Officer, any offensive weapon as aforesaid, shall incur a penalty of \$20 55 V. c. 3, s. 142.

Penalty.

Penalty on persons convicted of battery.

150. Every person convicted of a battery committed during any part of any day whereon an election, or any poll for an election, is to be begun, holden or proceeded with, within the distance of two miles of the place where the election or poll is so begun, holden, or proceeded with, shall incur a penalty of \$50. 55 V. c. 3, s. 143.

Restrictions as to carrying arms while poll is open.

151. With the exception of the Returning Officer, the Election Clerk, the Deputy Returning Officer or the Poll Clerk, or one of the constables or special constables appointed by the Returning Officer or the Deputy Returning Officer for the orderly conduct of an election or poll, and the preservation of the public peace thereat, no person who has not had a stated residence in the township or union of townships, or ward, or subdivision, for at least six months next before the day of the election, shall

come during any part of the day upon which the poll is to remain open, into the township or union of townships, ward, or subdivision, armed with offensive weapons of any kind, such as firearms, swords, staves, bludgeons or the like; nor shall any person whomsoever being in the township union of townships, ward, or subdivision, arm himself, during any part of the day, with such offensive weapons, and thus armed approach within the distance of two miles of the place where the poll for such subdivision is held, unless called upon to do so by lawful authority. 55 V. c. 3, s. 144; 60 V. c. 15, Sched. A (51).

152. No candidate for the representation of any Electoral District, or any other person, shall furnish or supply any ensign standard, or set of colours, or other flag, to or for any person or persons whomsoever, with intent that the same should be carried or used in such Electoral District on the day of election, or within eight days before such day, or during the continuance of the election or polling, by such person or any other, as a party flag, to distinguish the bearer thereof and those who might follow the same, as the supporters of such candidate, or of the political or other opinions entertained or supposed to be entertained by such candidate;

Party ensigns, flags, etc., not to be supplied or carried during the election or within eight days before it.

Nor shall any person for any reason carry or use any ensign, standard, set of colours, or other flag, as a party flag within the Electoral District on the day of the election or polling, or within eight days before such day, or during the continuance of the election. 55 V. c. 3, s. 145.

153. No candidate for the representation of any Electoral District, or any other person, shall furnish or supply any ribbon, label, or other favour, to or for any person whomsoever, with intent that the same should be worn or used within the Electoral District on the day of election or polling, or within eight days before such day, or during the continuance of the election, by such person or any other as a party badge to distinguish the wearer as the supporter of such candidate, or of the political or other opinions entertained, or supposed to be entertained, by such candidate;

Party badges, etc., not to be supplied or used.

Nor shall any person use or wear any ribbon, label, or other favour, as such badge, within the Electoral District, on the day of the election or polling, or within eight days before such day, or during the continuance of the election. 55 V. c. 3, s. 146.

154. Every person offending against any of the provisions of the next preceding three sections shall incur a penalty of \$100. 55 V. c. 3, s. 147.

Penalty.

MAINTAINING SECRECY OF PROCEEDINGS.

Maintaining
secrecy of
proceedings.

155.—(1) Every officer, clerk and agent in attendance at a polling place shall maintain and aid in maintaining the secrecy of the voting at the polling place; and shall not communicate, before the poll is closed, to any person any information as to the number on the list of voters in the poll book of any person who has or who has not applied for a ballot paper or voted at that polling place.

(2) No officer, clerk, or agent, and no person whosoever shall interfere with or attempt to interfere with a voter when marking his vote, or otherwise attempt to obtain at the polling place information as to the candidate for whom a voter at such polling place is about to vote or has voted.

(3) No officer, clerk, agent or other person shall communicate at any time to any person any information obtained at a polling place as to the candidate for whom a voter at a polling place is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at a polling place, or upon the counterfoil which was attached to the ballot paper, or as to the number prefixed to the name of a voter in the list of voters in the poll book.

(4) Every officer, clerk and agent in attendance at the counting of the votes, shall maintain and aid in maintaining the secrecy of the voting, and shall not attempt to ascertain at the counting, the number on the back of any ballot paper, or communicate any information obtained at the counting as to the candidate for whom any vote has been given on any particular ballot paper.

(5) No person shall, directly or indirectly, induce a voter to display his ballot paper after he has marked the same, so as to make known to any person the name of the candidate for or against whom he has marked his vote.

Penalty.

(6) Every person who acts in contravention of this section shall be liable, on summary conviction before a Stipendiary Magistrate, Police Magistrate, or two Justices of the Peace, to imprisonment for any term not exceeding six months, with or without hard labour. 55 V. c. 3, s. 148.

Oath of
secrecy.

156. Every Returning Officer and every other officer, clerk and agent authorized to attend at a polling place, or at the counting of the votes, shall, before entering on his duties take an oath or affirmation of secrecy, in the presence, if he is the Returning Officer, of a Justice of the Peace, and, if he is any other officer, or a clerk or an agent, in the presence of a Justice of the Peace, or of the Returning Officer or of a Deputy Returning Officer, and the oath or affirmation of secrecy shall be according to Form 28 in Schedule A to this Act, or to the

like effect and being in Form 6 in the poll book. 55 V. c. 3, s. 149.

157. In case any Returning Officer, Deputy-Returning Officer or clerk becomes aware, or has reason to believe or suspect, that any provision of the law as to secrecy has been violated it, shall be his duty to communicate the particulars, with all convenient speed, to the County Crown Attorney; and it shall be the duty of the County Crown Attorney on receiving such information from such officer or from any other person to forthwith enquire into the case as may be necessary, and to prosecute the offender as in the case of any other criminal offence. 55 V. c. 3, s. 149*a*.

Proceedings where officers aware of violation of secrecy.

158. No person who has voted at an election shall, in any legal proceedings to question the election or return, be required to state for whom he has voted. 55 V. c. 3, s. 150.

No one compellable to disclose his vote.

PREVENTION AND PUNISHMENT OF CORRUPT PRACTICES AND OTHER ILLEGAL ACTS AT ELECTIONS.

159.—(1) The following persons shall be deemed guilty of bribery and shall be punished accordingly:—

Certain acts to be bribery.

- (a) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives, lends, or agrees to give or lend, or offers or promises any money or valuable consideration, or promises or endeavours to procure any money or valuable consideration, to or for any voter, or to or for any person on behalf of any voter, or to or for any person, in order to induce any voter to vote or refrain from voting, or corruptly does any such act as aforesaid, on account of such voter having voted or refrained from voting at an election; Giving money etc., to voters.
- (b) Every person who, directly or indirectly, by himself or by any other person on his behalf, gives or procures, or agrees to give or procure, or offers or promises, any office, place or employment, or promises to procure, or to endeavour to procure any office, place or employment to or for any voter or to or for any other person, in order to induce such voter to vote or refrain from voting, or corruptly does any such act as aforesaid on account of any voter having voted or refrained from voting at an election; Procuring office, etc., for voters,
- (c) Every person who directly or indirectly, by himself, or by any other person on his behalf, makes any gift, loan, offer, promise, procurement or agreement as aforesaid, to or for any person, in order to induce such person to procure or endeavour to procure the return or for persons influencing voters.

of any person to serve in the Legislative Assembly, or the vote of any voter at an election ;

Corruptly influencing voters.

(d) Every person who upon or in consequence of any gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person to serve in the Legislative Assembly, or the vote of any voter at an election ;

Advancing or paying money or bribery.

(e) Every person who advances or pays, or causes to be paid money to, or to the use of, any other person with the intent that such money or any part thereof shall be expended in bribery at an election, or who knowingly pays, or causes to be paid, money to any person in discharge or repayment of any money wholly or in part expended in bribery at an election.

Penalty.

(2) Every person so offending shall incur a penalty of \$200 ; but the actual personal expenses of a candidate, his expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising, and other lawful and reasonable expenses incurred by the candidate or any agent in good faith and without any corrupt intent in connection with the election, shall be held to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act. 55 V. c. 3, s. 151.

Certain acts by voters to be bribery.

160.—(1) The following persons shall also be deemed guilty of bribery, and shall be punishable accordingly :—

Contracting to vote for money, etc.

(a) Every voter who, before or during an election, directly or indirectly, by himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election ;

Receiving money for voting.

(b) Every person who, after an election, directly or indirectly, by himself or by any other person on his behalf, receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or to refrain from voting at an election.

Penalty.

(2) Every person so offending shall incur a penalty of \$200. 55 V. c. 3, s. 152.

Furnishing entertainment forbidden, except at residence of the person furnishing.

161.—(1) No candidate for the representation of an Electoral District shall, nor shall any other person, either provide or furnish drink or other entertainment at the expense of such candidate or other person, to any meeting of electors assembled for the purpose of promoting the election, previous to or during the election, or pay or promise or engage to pay for

such drink or other entertainment, except only that nothing herein contained shall extend to any entertainment furnished to any such meeting of electors by or at the expense of any person or persons at his, her, or their usual place of residence.

(2) Every person offending against the provisions of this section shall incur a penalty of \$100. 55 V. c. 3, s. 153.

162. No candidate shall corruptly, by himself or by or with any person, or by any other way or means on his behalf, at any time, either before or during an election, directly or indirectly, give or provide, or cause to be given or provided, or shall be accessory to the giving or providing, or shall pay wholly or in part any expenses incurred for any meat, drink, refreshment or provision to or for any person, in order to be elected, or for being elected, or for the purpose of corruptly influencing such person or any other person to give, or refrain from giving, his vote at the election: and every person so acting shall be deemed guilty of a corrupt practice, and shall forfeit, to any person who sues for the same, the sum of \$200, with full costs of suit, in addition to any other penalty to which he may be liable therefor. 55 V. c. 3, s. 154.

Candidate not corruptly to provide refreshment.

Penalty.

163.—(1) The giving or causing to be given to any voter on the nomination day or day of polling, on account of such voter being about to vote or having voted, any meat, drink or refreshment, or any money or ticket to enable such voter to procure refreshment, shall be deemed a corrupt practice, and the person offending shall also forfeit, to any person suing for the same, the sum of \$10 for each offence, with full costs of suit. 55 V. c. 3, s. 155.

Giving meat or drink to electors.

Penalty.

(2) It shall not, upon the trial of an election petition, be a sufficient answer to a charge of treating electors that the person charged had been in the habit of treating. 58 V. c. 4, s. 21.

Treating.

164.—(1) Every candidate who, before or during the election makes a bet or wager, or takes a share or interest in, or in any manner becomes a party to, any bet or wager, upon the result of the election in the electoral district, or in any part thereof or on any event or contingency relating to the election, shall be guilty of a corrupt practice.

Wagering or betting.

(2) Every candidate or other person who provides money to be used by another in betting or wagering upon the result of an election to the Legislative Assembly, or on any event or contingency relating to the election, shall be guilty of a corrupt practice.

(3) Every person who for the purpose of influencing an election makes a bet or wager on the result thereof, in the electoral district or any part thereof, or on any event or contingency relating thereto, shall be guilty of a corrupt practice. 55 V. c. 3, s. 156.

Hiring of vehicles by candidates to convey electors illegal.

165.—(1) And whereas doubts may arise as to whether the hiring of teams and vehicles to convey electors to and from the polls, the providing or furnishing railway tickets or passes free of charge for the conveyance of voters to or from the polls, and the paying of railway fares and other expenses of voters, be or be not according to law :—It is declared and enacted, that

The hiring or promising to pay or paying for a horse, team, carriage, cab or other vehicle, by a candidate, or by a person on his behalf, to convey voters to or near or from the poll, or from the neighbourhood thereof, at an election, or the payment by a candidate, or by a person on his behalf, of the travelling and other expenses of a voter in going to or returning from an election, shall be illegal acts; and the person so offending shall thereby incur a penalty of \$100.

Free transportation by rail illegal.

(2) The following acts also shall be illegal acts and subject every person offending to a penalty of \$100, that is to say, providing or furnishing conveyance or transportation by railway free of charge or at diminished rates to voters to or from or on the way to or from the polls and whether passes or tickets or the like are or are not supplied.

Penalty.

(3) Every elector who hires a horse, cab, cart, waggon, sleigh, carriage or other conveyance for a candidate, or for an agent of a candidate or provides or furnishes or pays for the railway conveyance or transportation of voters as aforesaid shall *ipso facto* be disqualified from voting at the election, and for every such offence shall incur a penalty of \$100. 55 V. c. 3, s. 157.

Persons guilty of undue influence.

166. Every person who, directly or indirectly, by himself or any other person on his behalf, makes use of, or threatens to make use of any force, violence or restraint, or inflicts, or threatens the infliction by himself, or by or through any other person, of any injury, damage, harm or loss, or in any manner practises intimidation upon or against any person, in order to induce or compel such person to vote or refrain from voting, or on account of such person having voted or refrained from voting at an election, or who, by abduction, duress, or any fraudulent device or contrivance, impedes, prevents, or otherwise interferes with, the free exercise of the franchise of a voter, or thereby compels, induces, or prevails upon a voter, either to give or refrain from giving his vote at any election, shall be deemed to have committed the offence of undue influence, and shall incur a penalty of \$200. 55 V. c. 3, s. 158.

Penalty.

Personation to be a corrupt practice.

167.—(1) Every person who aids or abets, counsels or procures the commission of the offence of personation, shall be deemed guilty of a corrupt practice. 55 V. c. 3, s. 159 (1).

Personation defined.

(2) A person shall be deemed to be guilty of the offence of personation who, at an election, applies for a ballot paper in the name of some other person, whether that name be that of a person living or dead, or of a fictitious person, or who, having

voted once at an election, applies at the same election for a ballot paper in his own name, and every such person shall incur a penalty of \$200, and shall on conviction be also liable to imprisonment for any period not less than six days or more than six months. 55 V. c. 3, s. 159 (2); 57 V. c. 7, s. 12.

168. Every person who votes at an election knowing he has no right to vote at such election and every person who induces or procures any other person to vote at an election, knowing that such other person has no right to vote at the election, shall be guilty of a corrupt practice, and shall be liable to a penalty of \$100. 55 V. c. 3, s. 160.

169.—(1) Where a person is prosecuted before an Election Court under sections 159, 160 or 167 of this Act or he does not appear before the Court, or the Court thinks it in the interest of justice expedient that he should be tried before some other Court, the Election Court, if of opinion that the evidence is sufficient to put the said person on his trial for the offence may order such person to be prosecuted before such Court as may be named in the order; and for all purposes preliminary or incidental to such prosecution, the offence shall be deemed to have been committed within the jurisdiction of the Court so named.

(2) Every person tried by a jury shall, if found guilty, be liable to be imprisoned for any term not exceeding six months as well as to a fine not exceeding \$200 in the discretion of the court. Any prosecution under this section shall be a bar to any proceedings for the recovery of the penalty in any of the said sections mentioned. 55 V. c. 3, s. 160a.

170. No spirituous or fermented liquor or strong drink shall be sold or given at any hotel, tavern, shop or other place within the limits of a polling subdivision, during the polling day therein or any part thereof, under a penalty of \$100 for every offence; and the offender shall be subject to imprisonment not exceeding six months at the discretion of the Court or Judge, in default of payment of such fine. 55 V. c. 3, s. 161.

DISQUALIFICATION FOR CORRUPT PRACTICES.

171.—(1) Where it is found upon the report of the Judges upon an election petition that any corrupt practice has been committed by a candidate at an election, or by his agent, whether with or without the actual knowledge and consent of the candidate, the election of the candidate, if he has been elected, shall, except in the cases mentioned in section 172, be void, 55 V. c. 3, s. 162.

Concurrent judgment of two judges required.

(2) No candidate or other person is to be disqualified or subject to any disability or penalty for any corrupt practice, or alleged corrupt practice, without the concurrent judgment to that effect of the two Judges by whom the election petition is tried. This applies to the preceding subsection and to the conditions and circumstances therein mentioned, as well as to other matters on which corrupt practices or the consequences thereof in any way depend.

Corrupt practices by candidate during former election.

(3) In case of an election being set aside and a new election had, to the same Legislative Assembly or otherwise, the new election cannot be avoided by setting up corrupt acts or practices by the candidate in or during the former election, or affecting the same, which were not set up and proved at the former trial, and so adjudged by the two Judges at the former trial, or by the Court of Appeal before the subsequent election, as by law to involve such disqualification, disability or penalty. 58 V. c. 4, s. 18, part.

Corrupt practices by agents without knowledge of candidate not necessarily to avoid election.

172. To prevent the expense and trouble of new elections when unnecessary and useless; in case of a corrupt practice or practices being committed by an agent without the knowledge and consent of the candidate, if the corrupt practice or practices was or were of such trifling nature, or was or were of such trifling extent, that the result cannot have been affected, or be reasonably supposed to have been affected by such practice or practices, either alone or in connection with other illegal practices at the election, such corrupt practice or practices shall not avoid the election. 55 V. c. 3, s. 163.

Candidate guilty of corrupt practice incapable for eight years of being elected, etc.

173. Where it is found by the report of the Judges upon an election petition that any corrupt practice has been committed, by or with the actual knowledge or consent of a candidate at an election, and the next section does not apply, then in addition to his election, if he has been elected, being void, such candidate shall, during the eight years next after the date of his being so found guilty, be incapable of being elected to and of sitting in the Legislative Assembly, and of being entered in any voters' list or poll book as a voter and of voting at any election, and of holding any office, at the nomination of the Crown or of the Lieutenant-Governor, in Ontario, or any municipal office. 55 V. c. 3, s. 164.

Corrupt practice committed in excusable ignorance.

174. If it appears to the Court or the Judges or one of them trying an election petition, that an act constituting in law a corrupt practice was committed by a candidate, or with his knowledge and consent, but without any corrupt intent, and in an ignorance which was involuntary and excusable, and that the evidence shewed the candidate to have honestly

desired, and in good faith endeavoured as far as he could, to have the election conducted according to law, the candidate shall not be subject to the penalties and disabilities which he would but for this section incur under the next preceding section. 55 V. c. 3, s. 165.

175. If on the trial of an election petition, it is proved that an elector voting at the election was bribed, he shall be disqualified from voting at the next general election; and if it is proved that a corrupt practice has been committed by an elector voting at the election, his vote shall be null and void. 55 V. c. 3, s. 166.

Vote by elector committing any corrupt practice void.

176. In case a candidate or the agent of a candidate is proved to have committed a corrupt practice with respect to a voter, there shall on a scrutiny be struck off from the number of votes given for such candidate one vote for every person in regard to whom such corrupt practice is proved to have been committed, and without any examination of the ballot paper or other evidence to ascertain how such voter in fact voted. 55 V. c. 3, s. 167.

Votes to be struck off on scrutiny when corrupt practice is proved.

177.—(1) Every person other than a candidate found guilty of a corrupt practice in a proceeding in which, after notice of the charge, he has had an opportunity of being heard, shall, during the eight years next after the time at which he is so found guilty, be incapable of being elected to and of sitting in the Legislative Assembly, and of being registered as a voter, and of voting at any election, and of holding any office at the nomination of the Crown, or of the Lieutenant-Governor, in Ontario, or any municipal office.

Punishment of persons found guilty of any corrupt practice.

(2) No person other than a candidate shall be subject to the disabilities set forth in the preceding sub-section, (1) by reason of a merely technical breach of law, or (2) by reason of any act not being an intentional violation of law, and not involving moral culpability or affecting the result of the election. 55 V. c. 3, s. 168.

A merely technical or unintentional contravention of the law not to subject to penalties, etc.

178. If on the trial of an election petition, any candidate is proved to have personally engaged at the election to which the petition relates, as a canvasser or agent in relation to the election, any person, knowing that such person has, within eight years previous to such engagement, been found guilty of any corrupt practice by a competent legal tribunal, or by the report of the Judges upon an election petition, the election of such candidate shall be void. 55 V. c. 3, s. 169.

Election of candidate to be void for employing agent previously found guilty of corrupt practice.

179. To remove doubts as to the effect, upon a subsequent election, of the avoidance of a prior election, held for the same

Effect of avoidance of a prior election.

Electoral District for the same Legislative Assembly, it is hereby enacted:—That such subsequent election shall be deemed and taken, as respects both candidates and voters, to be a new election, in law and in fact, to all intents and purposes, except as to the personal acts of the candidates and the acts of agents of candidates done with the knowledge and consent of the candidates, and so found and reported by the Judges in deciding that the former election was void, such finding not being reversed on appeal. 55 V. c. 3, s. 170.

Removal of disqualification on proof that disqualification was procured by perjury.

180. If, at any time after any person has become disqualified by virtue of this Act, the witnesses or any of them on whose testimony such person has so become disqualified are, upon the prosecution of such person, convicted of perjury in respect of such testimony, it shall be lawful for such person to move the Court of Appeal to order, and the Court, upon being satisfied that such disqualification was procured by reason of perjury, shall order that the disqualification shall thereafter cease and determine, and the same shall cease and determine accordingly. 55 V. c. 3, s. 171.

Penalty for voting when under disqualification.

Proof of qualification to be on person voting.

Rev. Stat. c. 7.

181. Every person wilfully voting at an election, without having, at the time of his so voting, all the qualifications required by law for entitling him so to vote, shall incur a penalty of \$200, and, subject to the provisions of section 24 of *The Ontario Voters' Lists Act*, his vote shall, moreover, be null and void; and in any action or prosecution instituted as hereinafter provided against such person for the recovery of the penalty, the burden of the proof of such person having at the time of his so voting at the election, all the said qualifications, shall fall upon him and not upon the party instituting the action or prosecution. 55 V. c. 3, s. 172.

Penalty for voting more than once.

182. Every person who votes more than once at the same election shall, for so doing, incur a like penalty of \$200, and every vote he gives subsequently to his first vote shall be null and void. 55 V. c. 3, s. 173.

Colourable transfer of property in order to confer vote.

183. No person shall make, execute, accept or become a party to any lease, deed, or other instrument, or become a party to any verbal arrangement, whereby a colourable interest in any land, house or tenement is conferred, in order to qualify any person to vote at an election; and every person violating the provisions of this section, besides being liable to any other penalty prescribed in that behalf, shall incur a penalty of \$100, and every person who induces, or attempts to induce, another to commit an offence under this section, shall incur a like penalty. 55 V. c. 3, s. 174.

184. If lands or tenements are transferred or conveyed to a person, by any title or instrument whatever, fraudulently, and for the purpose of giving him the qualification requisite to enable him to vote, and if such person votes at any election, upon such lands or tenements, he shall incur a penalty of \$200; and nevertheless the transfer or conveyance, notwithstanding any agreement to annul or revoke the same, or to reconvey such lands or tenements, shall be valid, as between the parties thereto; and every agreement to annul or revoke such transfer or conveyance, or to reconvey such lands or tenements, shall be null and void. 55 V. c. 3, s. 175.

Penalty for fraudulent conveyances in order to give a vote.

Such conveyances to be valid between the parties.

185. Every executory contract or promise or undertaking, in any way referring to, arising out of, or depending upon, an election under this Act, even for the payment of lawful expenses, or the doing of some lawful act, shall be void in law; but this provision shall not enable any person to recover back money paid for lawful expenses connected with the election. 55 V. c. 3, s. 176

Contracts arising out of elections to be void.

186. No pecuniary penalty or forfeiture imposed by an Act of the Legislature of Ontario, shall be recoverable for any act of bribery or corrupt practice at an election, in case it appears that the person charged and another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted such other person or persons or any of them for the said act; but this provision shall not apply in case the Judge, before whom the person claiming the benefit thereof is charged, certifies that it clearly appears to him that the person so charged took the first step towards the commission of the offence charged, and that such person was in fact the principal offender. 55 V. c. 3, s. 177.

No statutory penalty for corrupt practice where the party charged has first prosecuted a party jointly liable.

Proviso.

COURT FOR TRIAL OF ILLEGAL ACTS.

187. Any two of the Judges appointed for the trial of election petitions shall be and constitute a Court for the trial of all corrupt practices and other illegal acts committed during an election, being offences in respect of which this Province has legislative authority. 55 V. c. 3, s. 178.

Court constituted for trial of illegal acts.

188.—(1) In case, in and by an affidavit filed at, before, or after the trial of an election petition, or from the evidence at the trial, any person not a party to the petition is charged with, or appears to have committed, any corrupt practice or other illegal act in connection with the election, the Judges or Judge trying the petition, or any Judge upon the rota for the trial of election petitions, may order such person to be summoned to

Procedure by summons in case charge of corrupt practice made against person not a party to petition.

appear to answer the charge or charges stated in the summons at a time and place to be named in the summons.

Issue and hearing of summons.

(2) The summons may be issued or returnable at any place in this Province, and may be heard and disposed of by any Judge or Judges upon the rota for the trial of election petitions or by any Judge of the High Court holding a sittings of the said Court for the trial of civil or criminal causes.

Service of summons.

(3) Every summons issued under this section may be served by delivering a copy of the summons to the person summoned, or to some inmate of his usual place of abode at such place of abode.

On return of summons judge to dispose of case.

(4) Upon the return of the summons and upon proof of service thereof, whether the person charged appears or not, the Judge or Judges attending to hear the matters charged, or before whom the summons is returnable, shall investigate and dispose of the case in a summary manner, and shall have the same powers, jurisdiction and authority for the investigation as two Judges sitting at the trial of an election petition have for the investigation of a charge of a corrupt practice alleged in the petition to have been committed by the candidate against whom the petition is filed, and shall have authority, from time to time, and from place to place, to adjourn the hearing of the case or the giving of his or their decision.

Refusal to attend on summons.

(5) In case the person so summoned neglects or refuses to attend in pursuance of the summons, then upon proof being made of such person having been duly summoned, the Judge or Judges may either issue his or their warrant to compel the appearance of such person, or if he were personally served, or if the Judge or Judges is or are satisfied that he is aware of the summons and might have been present had he so desired, may pronounce judgment in his absence.

Person charged to be allowed to make full defence.

(6) The person charged with committing the corrupt practice or other illegal act shall be allowed to make his full answer and defence and to have all witnesses examined and cross-examined by counsel.

If convicted judgment to be for money penalty.

(7) If, either from the admission of the party or from the evidence adduced, the Judge or Judges is or are satisfied that the person charged has committed any corrupt practice or practices or illegal act or acts mentioned in the summons, he or they shall adjudge that the said person has committed the corrupt practice or practices, or illegal act or acts, and shall order him to pay to the person at whose instance the summons was issued, hereafter called the prosecutor, the amount of the money penalty or penalties which is or are by law assigned to the offence or offences of which he has been convicted as aforesaid, and the same shall be a bar to any other proceeding for the penalty or penalties so ordered to be paid.

(8) If the person who appears to have committed such corrupt practice or illegal act, or is charged with having committed the same, is present in court, the Judge or Judges, instead of ordering him to be summoned as aforesaid, may then and there state to him the offence or offences which he appears to have committed, or is charged with having committed, and may appoint a time and place for hearing and adjudicating in respect thereof, and thereupon the same proceedings may be had as if a summons had issued in respect of the said offence or offences.

Notice to person charged when present.

(9) Where, from the evidence given at the trial as aforesaid, there appears reason to believe some person has committed a corrupt practice or illegal act, the Judge or Judges who are trying, or have tried, the petition may direct the County Attorney, or may direct any other solicitor or counsel who is then present, to institute or carry on proceedings under this section on behalf of Her Majesty.

Judge may direct prosecution.

(10) If any punishment in addition to or instead of a money penalty is by law assigned to the commission of any offence of which such person has been found guilty, the Judge or Judges shall sentence the person so found guilty to undergo such punishment and shall give all necessary directions in respect thereto, and in case imprisonment is imposed (whether with or without hard labour), the Judge or Judges may direct in what gaol or other place of confinement the person convicted shall be confined, or in default of any place being named such imprisonment shall be in the common gaol of the county or district in which the sentence is pronounced, and the sentence may be pronounced in the absence of the person convicted.

Judge to sentence person convicted to proper punishment in addition to money penalty.

(11) Where a money penalty or penalties is or are imposed, the Judge or Judges, unless the prosecutor elects to recover the amount imposed by process sued out of the High Court, shall direct that in default of the amount being paid forthwith or within a time not exceeding one month, to be limited by the Judge or Judges, the person convicted shall be imprisoned for a period not exceeding one year, either with or without hard labour, in any gaol, or other place of confinement to be named by the Judge or Judges, unless the amount of the penalty or penalties shall be sooner paid; and in default of any place being named, the imprisonment shall be in the common gaol of the county or district in which such sentence is pronounced.

Imprisonment in default of payment of money penalty.

(12) For the infliction of the imprisonment imposed, whether the imprisonment is in the first instance or is in default of payment of a penalty or penalties, the Judge or Judges shall have the like authority as a Court of Oyer and Terminer, or a Judge presiding thereat, has to give effect to the judgment of the Court, and the sheriff and gaoler shall obey all orders of the said Judge or Judges made in that behalf.

Authority of judge with respect to imprisonment.

Prosecutor may recover penalty by same process as in case of an ordinary judgment.

(13) If the prosecutor elects to recover the amount imposed by process sued out of the High Court, the Judge or Judges shall make an order for payment forthwith without directing imprisonment in default, and the prosecutor may thereupon file the order or a duplicate thereof in the proper office of the High Court, and thereafter writs of execution may be issued thereon out of the High Court, and any other proceedings may be had or taken thereon, or in respect thereto, which might be had or taken upon, or in respect to, an ordinary judgment of the said High Court.

Provision where penalty has been sued for before summons issued.

(14) In case within one month after the imposition under this section of any penalty it is made to appear that an action had been commenced for the recovery of such penalty before the issue of the summons, the Judge or either of the Judges who imposed the penalty under this Act may direct that a proportion of the amount recovered, after the full costs and disbursements of the prosecutor have been paid, shall be paid over to the plaintiff in the action, and in case the terms of the order are not obeyed the person in whose favour it was made, may, after one month from the date thereof, sue the prosecutor in any Court of competent jurisdiction for the amount to which the plaintiff is entitled, as for money received by the prosecutor for the use of the plaintiff. If, after an order has been made under this subsection, it appears that the plaintiff in any other action is also entitled to apply hereunder, and if he so applies, the terms of the previous order may be varied as in view of such other application may seem just.

Costs.

(15) The Judge or Judges trying any charges under this section shall have power to direct by whom the costs of the prosecutor or person charged, or any part thereof, shall be paid, and where costs are payable by a person convicted, payment shall be enforced in the same manner as the payment of the penalty or penalties, and shall be included in the same order. Where costs are payable by a prosecutor, payment thereof may be enforced in the manner provided (in the case of a penalty) by sub-section 13 of this section.

Application of money penalties.

(16) All moneys received by a private prosecutor under this section shall belong one-half to the Crown and the other half to the prosecutor. 55 V. c. 3, s. 179.

PERSONS NOT TO BE EXCUSED FROM GIVING EVIDENCE.

Persons not excused from answering, etc., on the ground that answers may criminate.

189. No person shall be excused from answering any question put to him in an action, or other proceeding in any Court, or before a Judge, touching or concerning an election, or the conduct of any person thereat, or in relation thereto, on the ground of privilege, or on the ground that the answer to the question will tend to criminate himself; but no answer given by a person claiming to be excused on

the ground of privilege, or on the ground that his answer will tend to criminate himself, shall be used in any proceeding against such person under any Act of the Legislature of Ontario, if the Judge gives to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and made full and true answers to the satisfaction of the Judge. 55 V. c. 3, s. 180.

OFFENCES AND PENALTIES.

190. Any Returning Officer, Deputy Returning Officer, or other person whose duty it is to deliver poll books or to have the custody of a certified list of voters or poll book, who wilfully makes any alteration, omission or insertion, or in any way wilfully falsifies such certified list or poll book shall incur a penalty of \$2,000. 55 V. c. 3, s. 181.

Returning Officers, etc., wilfully falsifying or altering list of voters to incur penalty.

191.—(1) No person shall

- (a) Fraudulently deface or fraudulently destroy any ballot paper; or
- (b) Without due authority supply any ballot paper to any person; or
- (c) Fraudulently put into a ballot box any paper other than the ballot paper which he is authorized by law to put in; or
- (d) Fraudulently take out of the polling place any ballot paper; or
- (e) Without due authority destroy, take, open, or otherwise interfere with any ballot box or packet of ballot papers then in use for the purposes of the election.

Offences respecting ballot papers and ballot boxes.

(2) No person shall attempt to commit any offence specified in this section. Attempts.

(3) Any Returning Officer guilty of any violation of this section shall be liable to imprisonment for any term not exceeding two years, with or without hard labour, and any other person guilty of any such violation shall be liable to imprisonment for any term not exceeding six months, with or without hard labour. 55 V. c. 3, s. 182. Penalty.

192.—(1) Any person who unlawfully or maliciously destroys, injures or obliterates, or causes to be wilfully or maliciously destroyed, injured or obliterated, a writ of election, or any return to a writ of election, or any poll book, voters' list, certificate or affidavit, or other document or paper made, prepared or drawn out according to or for the purpose of meeting the requirements of this Act or any of them, shall incur a penalty of \$2,000.

Persons unlawfully destroying etc., documents relating to elections, etc.

Abettors punishable.

(2) Any person who aids, abets, counsels or procures the commission of any violation of this Act, as in this section mentioned, shall incur a penalty of \$2,000. 55 V. c. 3, s. 183.

Penalty for omitting to initial ballots.

193.—(1) Any Deputy Returning Officer wilfully omitting to sign or stamp his name or initials on the back of a ballot paper in use for the purposes of an election shall be liable to a fine of twenty dollars in respect of every such ballot paper upon the back whereof he has not signed or stamped his name or initials where required by this Act. 58 V. c. 4, s. 14 (3).

Deputy returning officer or poll clerk neglecting duties.

(2) Every Deputy Returning Officer or Poll Clerk who refuses or neglects to perform any of the obligations or formalities required of him by section 112 and sections 114 to 122 inclusive of this Act, shall, for each refusal or neglect, incur a penalty of \$200. 55 V. c. 3, s. 184; 60 V. c. 15, Sched. A (52).

Money penalty for offences.

194. Every officer or clerk who is guilty of any wilful misfeasance, or any wilful act or omission in contravention of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act or omission, a penal sum of \$400. 55 V. c. 3, s. 186.

How penalties under Act recoverable.

195. Subject to the provisions of sections 187 and 188 :

1. All penalties imposed by this Act shall be recoverable with full costs of action, by any one who sues for the same in any of Her Majesty's Courts in this Province having competent jurisdiction; and in default of payment of the amount which the offender is condemned to pay, within the period to be fixed by the Court, the offender shall be imprisoned in the common gaol until he has paid the amount which he has been so condemned to pay and the costs.

Statement of plaintiff's claim.

2. It shall be sufficient for the plaintiff, in any such action, to allege in the statement of claim that the defendant is indebted to him in the sum of money thereby demanded, and to allege the particular offence for which the action is brought, and that the defendant had acted contrary to this Act, without mentioning the writ of election or the return thereof.

Limitation of actions.

3. Every such action, shall be commenced within the space of one year next after the act committed, or the omission complained of, and not afterwards, and shall be tried by a Judge without a jury.

Writ, etc., need not be produced at trial.

4. It shall not be necessary on the trial of any action or prosecution under this Act, to produce the writ of election or the return thereof, or the authority of the Returning Officer founded upon the writ of election, but general evidence of such facts shall be sufficient evidence. 55 V. c. 3, s. 187; 60 V. c. 15, Sched. A (54).

196. In an action for a penalty under this Act the plaintiff shall be ordered to give security for the costs of the action on the application of the defendant. 55 V. c. 3, s. 188.

Security for costs.

ELECTION EXPENSES OF CANDIDATES.

197. No payment (except in respect of the personal expenses of a candidate), and no advance, loan or deposit for the purposes of the election, shall be made by or on behalf of a candidate at an election, before, or during, or after the election, otherwise than through an agent or agents whose name and address, or names and addresses, has or have been declared in writing to the Returning Officer on or before the day of nomination; or through an agent or agents to be appointed in his or their place as herein provided; and no person shall make any such payment, advance, loan or deposit for the purposes of the election, otherwise than through such agent or agents. 55 V. c. 3, s. 189.

Payments, etc., by or on behalf of candidates except through named agents forbidden.

198. In event of the death or legal incapacity of any agent appointed in pursuance of the preceding section, the candidate shall forthwith appoint another agent in his place, by giving notice to the Returning Officer of the name and address of the person so appointed, which shall in like manner be forthwith published by the Returning Officer at the expense of the candidate. 55 V. c. 3, s. 190.

On death or incapacity of an agent, appointment of another.

199.—(1) All persons who have any bills, charges or claims upon a candidate for or in respect of an election, shall send in such bills, charges or claims, within one month from the day of the declaration of the election, to such agent or agents as aforesaid, otherwise such persons shall be barred of their right to recover such claims and every part thereof.

Claims on candidate in respect of any election, when to be sent in to agent.

(2) In case of the death within the said month of any person claiming the amount of such bill, charge or claim, the legal representative of such person shall send in such bill, charge or claim, within one month after obtaining probate, or letters of administration, as the case may be, or the right to recover such claim shall be barred as aforesaid.

Case of death of person making claim

(3) Such bills, charges and claims shall be sent in and delivered to the candidate, if, and so long as, during the said month, there is, owing to death or legal incapacity, no agent.

Case of death of agent.

(4) The agent shall not pay nor allow any bill, charge or claim without the authority of the candidate, as well as his own approval. 55 V. c. 3, s. 191.

Agent not to pay without authority of candidate.

200. Notwithstanding anything in the next preceding section contained, any lawful election account which would have

Payment of lawful accounts rendered after

one month
from election.

been payable if sent in within one month of the day of the declaration, may be paid by the candidate through his election agent, after that time if such account is approved by one of the Judges of the High Court or by the County Court Judge (or one of the County Court Judges), of the county in which the election took place, and the Judge makes an order to that effect, and not otherwise. All accounts allowed by a Judge shall, within one week thereafter be advertised in the same newspapers as the other election accounts. 55 V. c. 3, s. 191a.

A detailed statement of election expenses, etc., to be sent by agent to Returning Officers, who shall publish same.

201.—(1) A detailed statement of all election expenses incurred by or on behalf of a candidate, including payments in respect of his personal expenses, shall, within two months after the election (or in cases where, by reason of the death of the creditor, no bill has been sent in within such period of two months, then within one month after such bill has been sent in), be made out and signed by the agent, or, if there be more than one, by every agent who has paid the same (including the candidate in case of payments made by him), and delivered, with the bills and vouchers relative thereto, to the Returning Officer;

(2) The Returning Officer for the time being shall, at the expense of the candidate, within fourteen days, insert or cause to be inserted an abstract of the statement, with the signature of the agent thereto, in some newspaper published or circulating in the Electoral District where the election was held;

Penalty.

(3) Any agent or candidate who makes default in delivering to the Returning Officer the statement required by this section, shall incur a penalty not exceeding \$25 for every day during which he so makes default; and no agent or candidate shall wilfully furnish to the Returning Officer an untrue statement. 55 V. c. 3, s. 192.

Returning Officer to preserve bills, etc., and allow inspection.

202. The Returning Officer shall preserve all such bills and vouchers, and shall during six months after they have been delivered to him permit any voter to inspect the same on payment of a fee of twenty-five cents. 55 V. c. 3, s. 193.

FEES AND EXPENSES OF RETURNING OFFICERS, ETC.

Tariff of fees.

203. The fees in Schedule B to this Act mentioned, in respect of the several matters therein contained, and no others shall be allowed to the several officers therein mentioned respectively, for the services and disbursements in the said schedule specified. 55 V. c. 3, s. 194.

Payment of fees and expenses of Returning Officers.

204. The said fees, allowances and disbursements, together with the reasonable expenses incurred by the Returning Officer, and by the other officers and clerks, for printing, providing polling compartments, transmission of the packets required by this Act to be transmitted, and reasonable fees and allowances

for other services rendered under this Act, shall be paid over to the Returning Officer, by warrant of the Lieutenant-Governor, directed to the Treasurer of the Province, out of the Consolidated Revenue Fund of the Province, and shall be distributed by the Returning Officer to the several officers and persons entitled to the same under the provisions of this Act, which distribution he shall report to the Lieutenant-Governor through the Provincial Secretary. 55 V. c. 3, s. 195.

205. The Lieutenant-Governor may direct the payment to the Returning Officers of the Electoral Districts of Algoma West, Algoma East, Muskoka, Nipissing and Parry Sound, out of the Consolidated Revenue Fund, of such sums (over and above the allowance authorized by the preceding sections of this Act), as may be required to pay the expenses reasonably incurred by the Returning Officers, and by the other officers and clerks, in conducting the election, and reasonable fees and allowances for any extraordinary services rendered by them thereat. 55 V. c. 3, s. 196.

In Algoma,
Muskoka,
Nipissing and
Parry Sound.

MISCELLANEOUS PROVISIONS.

206. The Clerk of the Legislative Assembly shall be *ex officio* Clerk of the Crown in Chancery, and shall discharge all the duties which by any Statute, law, or usage ought to be done, or have heretofore been done, by the Clerk of the Crown in Chancery. 55 V. c. 3, s. 197.

Clerk of
Legislative
Assembly to
be *ex-officio*
Clerk of the
Crown in
Chancery.

207. The property in the ballot boxes, ballot papers, counterfoils, and marking instruments procured for or used at an election, shall be in Her Majesty. 55 V. c. 3, s. 198.

Property in
ballot boxes,
papers, etc., to
be in Her
Majesty.

208. No person who, by section 4 of this Act, is disqualified and incompetent to vote, shall act as agent for a candidate at an election; and any person violating this enactment shall be subject to the same penalty as if he had voted at the said election. 55 V. c. 3, s. 199.

Certain persons
disqualified
from acting
as agents.
Penalty.

209. A candidate may himself undertake the duties which any agent of his, except the agent whose appointment is required by section 197 might have undertaken, if appointed, or may assist his agent in the performance of such duties, and may be present at any place at which his agent may in pursuance of this Act be authorized to attend. 55 V. c. 3, s. 200; 60 V. c. 15, Sched. A (55).

Candidates
may undertake
duties of agent.

210. At an election, whether on the day of the opening, or at the polling places opened and kept for the election, in the absence of any person authorized in writing to act as agent for an absent candidate, any elector in the interest of such candidate may, at any time during the election, declare himself to be

Elector may
act as agent of
candidate.

and may act as the agent of such candidate without producing a special authority in writing for that purpose. 55 V. c. 3, s. 201.

Expressions referring to agents.

211. Where in this Act expressions are used, requiring or authorizing any act or thing to be done, or inferring that any act or thing is to be done in the presence of the agents of the candidates, such expressions shall be deemed to refer to the presence of such agents of the candidates as may have been authorized to attend, and as have in fact attended at the time and place where such act or thing is being done; and the non-attendance of any agent or agents at such time and place shall not, if the act or thing be otherwise duly done, invalidate in anywise the act or thing done. 55 V. c. 3, s. 202.

Provision when election or polling not commenced or interrupted by reason of riot etc.

212. In case, by reason of riot or other emergency, an election, or the voting at a polling place, is not commenced on the proper day, or is interrupted after being commenced, and before the lawful closing thereof, the Returning Officer or Deputy Returning Officer, as the case may be, shall hold or resume the election or polling on the following day, at the hour of nine o'clock in the forenoon, and continue the same from day to day if necessary, until a fair opportunity for nominating candidates is given, or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eight hours in all, or thereabouts, in order that all the electors so intending may have had a fair opportunity to vote. 55 V. c. 3, s. 203.

Sundays and holidays to be included in reckoning time.

213. Sunday and any day set apart by an Act of lawful authority for a public holiday, fast or thanksgiving, shall be included in reckoning any period of time under this Act, but where anything is required by any section of this Act to be done on a day or date which falls on any of those days, or where the last day for doing anything or for taking any proceeding under this Act, falls on any of such days, such thing may be done on the next juridical day. 58 V. c. 4, s. 20.

Election not to be void in certain cases for want of compliance with directions of Act, where result not affected.

214.—(1) No election shall be declared invalid by reason of any irregularity in any of the proceedings preliminary to the polling or by reason of a failure to hold a poll at any place appointed for holding a poll, or by reason of a non-compliance with the directions contained in this Act as to the taking of the poll or the counting of the votes, or by reason of any mistake in the use of the Forms contained in Schedule A to this Act, if it appears to the tribunal having cognizance of the question that the election was conducted in accordance with the principles laid down in this Act, and that such failure, non-compliance or mistake did not affect the result of the election. 55 V. c. 3, s. 205.

(2) No election shall held to be void for any irregularity on the part of the Returning Officer, unless it appears to the tribunal having cognizance of the question that the irregularity affected the result of the election. 58 V. c. 4, s. 18, part.

Irregularity on part of Returning Officer not to void election.

215. The Returning Officer shall have power to administer any of the oaths, affirmations, or take any of the declarations required with respect to the election; and any Deputy Returning Officer or Election Clerk may administer such oaths, affirmations, or take such declarations, except in cases where they are required to be administered to the Returning Officer. 55 V. c. 3, s. 207.

Administration of oaths, etc.

216 Every person before whom it is hereby required that an oath be taken, or an affirmation made in the manner herein provided, shall administer such oath or affirmation gratuitously. 55 V. c. 3, s. 208.

No charge for administering oaths, etc.

217. There shall be transmitted to every Returning Officer with the writ of election, such a number of copies of this Act, and of any Acts which may be passed amending the same, as will be sufficient to supply the Returning Officer and each Deputy Returning Officer at the election with one copy at least; and every copy shall be accompanied with a copious alphabetical index. 55 V. c. 3, s. 209.

Transmission to Returning Officers of copies of this Act.

[As to transmission of copies of Chaps. 8 and 10 see Cap. 8, sec. 52, and as to Inquiries into matters connected with elections and attempts to corrupt members of the Legislative Assembly, see Cap. 19]

SCHEDULE A.

FORM 1.

(Referred to in Section 35.)

PROCLAMATION OF THE RETURNING OFFICER DECLARING THE TIME AND PLACE FIXED FOR THE OPENING OF THE ELECTION, AND ALSO THE DAY FOR OPENING THE POLL.

PROCLAMATION.

County (Riding, City, Town or other Electoral District, as the case may be) of _____, to wit:

Public Notice is hereby given to the Electors of the County (or as the case may be) of _____ that in obedience to Her Majesty's Writ to me directed, and bearing date the _____ day of the month of _____, I require the presence of the said Electors at _____, in the County (or Township, or City or Town) of _____ (here describe the place distinctly, whether the election be for a County, or for any other Electoral District) on the day of the month of _____, at _____ o'clock in the noon, for the purpose of electing a person (or persons, as the case may be) to represent them in the Legislative Assembly of this Province; and notice is further given that in case a poll is demanded and allowed in the manner by law prescribed, such poll will be opened on the _____ day of the month of _____, in the year _____, in each of the Townships, Wards, or Polling Subdivisions in which a polling place is to be opened and kept according to law, of which due notice will be given on the Day of Nomination. Of all which every person is hereby required to take notice, and to govern himself accordingly.

Given under my hand at _____, this _____ day of the month of _____, in the year 18 ____.

(Signature)

A. B.

Returning Officer.

55 V. c. 3, Form 1.

FORM 2.

(Referred to in Section 46.)

OATH OF THE RETURNING OFFICER.

I, the undersigned A. B., Returning Officer for the County (or Riding or as the case may be) of _____ solemnly swear (or if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm) that I am legally qualified according to law to act as Returning Officer for the said County (or Riding, as the case may be) of _____ and that I will act faithfully in that capacity, without partiality, fear, favour or affection: So help me God.

(Signature)

A. B.,

Returning Officer.

55 V. c. 3, Form 2.

FORM 3.

(Referred to in Section 47.)

COMMISSION OF AN ELECTION CLERK.

To *E. F.* (set forth his legal addition and residence.)

Know you, that in my capacity of Returning Officer for the County (*or as the case may be*) of _____, I have appointed and do hereby appoint you to be my Election Clerk, to act in that capacity according to law at the approaching election for the said County (*or as the case may be*) of _____ which election will be opened by me on the _____ day of the month of _____, 18____.

Given under my hand this _____ day of _____, 18____, in the year 18____.

(Signature) *A. B.*,
Returning Officer.

55 V. c. 3, Form 3.

FORM 4.

(Referred to in Section 48.)

OATH OF THE ELECTION CLERK.

I, the undersigned *E. F.*, appointed Election Clerk for the County (*or as the case may be*) of _____, solemnly swear (*or, if he be one of the persons permitted by law to affirm in civil cases, solemnly affirm*) that I will act faithfully in my said capacity of Election Clerk, and also in that of Returning Officer, if required to act as such, according to law, without partiality, fear, favour or affection : So help me God.

(Signature) *E. F.*,
Election Clerk.

55 V. c. 3, Form 4.

FORM 5.

(Referred to in Section 53.)

PROCLAMATION WHICH THE RETURNING OFFICER IS TO CAUSE TO BE READ AT THE HUSTINGS, ON THE DAY OF THE OPENING OF THE ELECTION.

OYEZ, OYEZ, OYEZ.

All persons are commanded and strictly enjoined to keep silence while Her Majesty's Writ for the present Election is publicly read, under the pains and penalties in such case provided.

55 V. c. 3, Form 5.

FORM 6.

(See Sections 33 and 84.)

FORM IN WHICH THE BLANK VOTERS' LIST IN THE POLL BOOK TO BE FURNISHED BY THE CLERK OF THE CROWN IN CHANCERY TO RETURNING OFFICERS IS TO BE PREPARED.

Number prefixed.	NAMES OF VOTERS.	Place of Residence.	If Voter is an Unfranchised Indian shew properly qualification.	Objections.	Sworn or affirmed.	Refused to swear or affirm.	Column for marks indicating that Voter has offered to vote.	REMARKS.

NOTE.—The Numbers directed by section 86 of this Act to be prefixed by the Deputy Returning Officer to the names in the Voters' List are to be placed in the first column.

FORM 7.

(Referred to in Section 64.)

COMMISSION OF DEPUTY RETURNING OFFICER.

To G. H. *(Insert his residence and legal addition.)*

Know you that, in my capacity of Returning Officer for the Electoral District of _____, I have appointed and do hereby appoint you to be Deputy Returning Officer for the _____ Polling Subdivision of the Township *(or as the case may be)* of _____ in the said Electoral District, there to take the votes of the electors according to law, at the polling place to be by you opened and kept for that purpose, and you are hereby authorized and required to open and hold the poll of such election for the said _____ Polling Subdivision of the said Township *(or as the case may be)* of _____ on the _____ day of _____ A. D. 18____, at nine o'clock in the forenoon, at *(here describe particularly the place in which the poll is to be held)*, and there to keep the said poll open during the hours prescribed by law, and to do and perform in such polling place all acts and duties required to be performed by the Deputy Returning Officer appointed to act therefor, and to return to me on or before the _____ day of _____ A. D. 18____, together with this commission, the several packets and documents required to be returned to me in the manner prescribed by sections 116, 117, and 118 of *The Ontario Election Act*.

Given under my hand at the _____ of _____ in the County _____ *(or as the case may be)* of _____ this _____ day of _____ A. D. 18____.

(Signed) _____ A. B.,
Returning Officer.

55 V. c. 3, Form 7.

FORM 8.

(Referred to in Section 65.)

OATH OF DEPUTY RETURNING OFFICER.

I, the undersigned G. H., appointed Deputy Returning Officer for the _____ Polling Subdivision of the Township *(or as the case may be)* of _____, in the County *(or as the case may be)* of _____, solemnly swear *(or, being one of the persons permitted by law to affirm in civil cases, solemnly affirm)* that I will act faithfully, in my said capacity of Deputy Returning Officer, without partiality, fear, favour or affection: So help me God.

(Signature) _____ G. H.,
Deputy Returning Officer.

55 V. c. 3, Form 8.

FORM 9.

(Referred to in Section 76.)

CERTIFICATE OF CLERK OF MUNICIPALITY.

Shewing date fixed for the assessor to begin to make the assessment roll and the last day on which a complaint could be made to the County Judge under section 17 of The Ontario Voters' Lists Act:

Election to the Legislative Assembly

for the Electoral District of

I, •

clerk of the Municipality of

in the County of

do hereby certify that the time fixed for the assessor to begin to make the assessment roll on which the voters' list proper to be used for the purposes of the election is based, was the day of 18 , and that the last day on which a complaint could be made to the County Judge under section 17 of *The Ontario Voters' Lists Act* in respect of any error or omission in the said voters' list, was the day of 18 .

Dated this

day of

189

(Signed)

Clerk.

55 V. c. 3, Form 9.

FORM 10.

(Referred to in Section 76.)

CERTIFICATE OF CLERK AS TO DATES OF RETURN AND FINAL REVISION OF THE ASSESSMENT ROLL.

Election to the Legislative Assembly for the Electoral District of 18

I, A. B., Clerk of the Municipality of , in the County of , do hereby certify that the Assessment Roll for this Township (*or as the case may be*), of upon which the Voters' List to be used at this election is based, was returned to me by the Assessor for said Township (*or as the case may be*), on the day of 18 , and that the same was finally revised and corrected on the day of 18 .

Dated this

day of

18

A. B.,

Clerk.

55 V c. 3, Form 10.

FORM 11.

(Referred to in Section 69.)

FORM OF BALLOT PAPER. (Front.)

Election for the County of (or as the case may be)	1	DOE. (John Doe, Township of Southwold, County of Elgin, Yeoman.)
Counterfoil, No.	2	ROE. (Richard Roe, of Town of Goderich, County of Huron, Merchant.)
No. on Voters' List in Poll Book.	3	STILES. (Geoffrey Stiles, of 52 Talbot Street, London, Physician.)
Note—The Counterfoil is to have a number to correspond with that on the back of the Ballot Paper.	4	STILES. (John Stiles, of 31 Grosvenor Street, Toronto, Barrister-at-Law.

(Back.)

No.
Election for the County of
(or as the case may be).
18

NOTE.—Nothing else is to be printed on the back of the Ballot Paper.

55 V. c. 3, Form 11.

FORM 12.

(Referred to in Sections 31, 74 and 103.)

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING.

The voter is to vote for one candidate.

The voter is to go into one of the compartments and, with the pencil provided in the compartment, place a cross on the right-hand side, opposite the name of the candidate for whom he votes, thus X.


The voter is then to fold up the ballot paper so as to shew the name or initials of the Deputy Returning Officer signed on the back, and leaving the compartment shall, without shewing the front of the paper to any person, deliver such ballot so folded to the Deputy Returning Officer, and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer, who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more than one candidate, or places any mark on the paper by which he may be afterwards identified, his ballot paper will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Deputy Returning Officer, he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

In the following form of Ballot Paper given for illustration, the Candidates are JOHN DOE, RICHARD ROE, GEOFFREY STILES, and JOHN STILES, and the voter has marked his ballot paper in favour of RICHARD ROE.

	1	DOE. (John Doe, Township of Southwold, County of Elgin, Yeoman.)	
	2	ROE. (Richard Roe, of Town of Goderich, County of Huron, Merchant.)	X
	3	STILES (Geoffrey Stiles, of 52 Talbot Street, London, Physician.)	
	4	STILES. (John Stiles, of 31 Grosvenor Street, Toronto, Barrister-at-Law.)	

[NOTE.—*In the directions printed for The Electoral District of Ottawa when two members are to be elected, substitute “The voter may vote for two candidates” in lieu of “The voter is to vote for one candidate” and substitute “If the voter votes for more than two candidates” in lieu of “If the voter votes for more than one candidate.” This note is not to be printed on the directions.*]

55 V. c. 3, Form 12; 60 V. c. 3, s. 3, c. 15, Sched. A (56).

FORM 13.

To be put up at all Polling Places.

NOTICE AS TO SECRECY OF VOTING.

(Referred to in Section 31.)

It is the sworn duty of the deputy returning officer, and of every clerk and agent at this polling place, not to attempt to ascertain how any person is about to vote or has voted; and not to attempt to see or ascertain, at the counting, the number on the back of any ballot paper, or the num-

ber on any counterfoil ; and not to communicate any information obtained at the polling place which may enable or assist any person to ascertain how any person has voted.

It is the further sworn duty of the deputy returning officer, and of every clerk and agent at this polling place, by all proper means to maintain, and aid in maintaining, the absolute secrecy of the voting at this polling place.

Any person who acts in contravention of his duty in any of the said particulars is liable, on summary conviction before a stipendiary or police magistrate or before two justices of the peace, to imprisonment with hard labour for six months.

By section 191 of *The Ontario Election Act*, it is further provided, among other things, that no person shall open or otherwise interfere with any ballot-box or package of ballot papers in use for the purposes of the election, or shall attempt to do so ; and that any returning officer guilty of any violation of such section shall be liable to imprisonment for two years, with hard labor, and any other person guilty of such violation to imprisonment for six months, with hard labor.

Section 194 provides that, in addition to every other penalty and liability, any officer or clerk who is guilty of any wilful misfeasance, or any wilful act or omission in contravention of the Act, shall forfeit to any person aggrieved by the misfeasance, act or omission, a penal sum of \$400.

This notice is placarded by order of the Legislature.

CHARLES CLARKE (*or as the case may be*)
Clerk of the Crown in Chancery.

55 V. c. 3, Form 13.

FORM 14.

(*Referred to in Sections 87, 90 and 91.*)

COMMISSION OF A POLL CLERK.

To *I. J.* (*Insert his legal addition and residence.*)

Know you, that in my capacity of Deputy Returning Officer for the
Polling Subdivision of the Township (*or as the case may be*)
of _____, in the County (*or as the case may be*) of _____
, I have appointed and do hereby appoint you to be
Poll Clerk for the said _____ Polling Subdivision of the said
Township (*or as the case may be*) of _____
Given under my hand, at _____ this _____ day of
the month of _____, in the year 18 _____.

(*Signature.*)

G. H.,

Deputy Returning Officer.

55 V. c. 3, Form 14.

FORM 15.

(Referred to in Section 87.)

OATH OF A POLL CLERK.

I, the undersigned, *I. J.*, appointed Poll Clerk for the Poll-
ing Subdivision of the Township (or as the case may be) of _____, do solemnly
in the County (or as the case may be) of _____, swear (or, if he be one of the persons permitted by law to affirm in civil cases,
do solemnly affirm) that I will act faithfully in my capacity of Poll Clerk,
and also in that of Deputy Returning Officer, if required to act as such,
according to law, without partiality, fear, favour or affection : So help me
God.

(Signature) *I. J.*,
Poll Clerk.

55 V. c. 3, Form 15.

FORM 16.

*(Referred to in Section 98.)*FORM OF OATH IN ORDINARY CASES TO BE ADMINISTERED AT AN ELECTION
TO A VOTER BY VIRTUE OF MANHOOD SUFFRAGE.

(1) You swear (1) That you are the person named or intended to be
named by the name of _____ in the list of voters now
shown to you in the poll book.

(2) That you are a British subject by birth or naturalization.

(3) That you have resided within this Province for nine months before
the (2) _____ day of _____, being the day
fixed by statute or by by-law authorized by statute for beginning to make
the assessment roll in which you were entitled to be entered as a person
qualified to vote.

(4) That you were at the date aforesaid in good faith a resident of and
domiciled in the municipality in the list of which you were entered ; that
you have resided in this electoral district continuously from the said date
(3), and that you are now actually residing and domiciled therein.

or

[(3) That you have resided within this Province for twelve months
before the 2) _____ day of _____, being the day up
to which complaint could be made to the County Judge under *The Ontario
Voters' Lists Act* to insert the name of any person in the list.

(4) That you were at the time aforesaid in good faith a resident of and
domiciled in the municipality in the list of which you were entered ; that
you have resided in this electoral district continuously from the said date
(3), and that you are now actually residing and domiciled therein.]

(5) That you are entitled to vote at this election and in this municipality.

(6) That you are of the full age of 21 years.

(7) That you have not voted before at this election, either at this or any other polling place.

(8) That you have not received anything, nor has anything been promised you, either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith.

(9) And that you have not directly or indirectly, paid or promised anything to any person, either to induce him to vote or to refrain from voting at this election.

So help you God.

NOTE.—(1) If the voter is a person who may by law affirm in civil cases then for "swear" substitute "solemnly affirm."

(2) The date to be inserted is at the choice of the elector to be either the date fixed by law for the assessor to begin to make the assessment roll or the last day for making a complaint to the County Judge under section 17 of *The Ontario Voters' List Act*. (See copy of certificate of clerk, form 3 in the poll book and form 9 in schedule.)

(3) In case the voter has been temporarily absent for any of the purposes allowed by law, insert the words following "except occasionally or temporarily, in the prosecution of your occupation as (mentioning as the case may be, a lumberman or mariner, or fisherman, or in attendance as a student in an institution of learning in the Dominion of Canada, naming the institution.)"

55 V. c. 3, Form 16.

FORM 17.

(Referred to in Section 98.)

FORM OF OATH TO BE ADMINISTERED TO MANHOOD SUFFRAGE VOTERS
AT ELECTIONS IN CITIES AND IN TOWNS TO WHICH THE MAN-
HOOD SUFFRAGE REGISTRATION ACT APPLIES.

1. You swear (1) that you are the person named or intended to be
named by the name of _____ in the list of voters
now shown to you in the poll book.

2. That you are a British subject by birth or naturalization.

3. That you resided within this Province for the twelve months next
preceding the (2) _____ day of _____ 18 (3).

4. That you were on the said day in good faith a resident of and domiciled in this electoral district; that you have resided in this electoral district continuously from the said day and that you are now actually residing and domiciled therein.

5. That you are entitled to vote at this election in this electoral district.

6. That you are of the full age of 21 years.

7. That you have not voted before at this election, either at this or any other polling place.

8. That you have not received anything, nor has anything been promised you either directly or indirectly, either to induce you to vote at this election or for loss of time, travelling expenses, hire of team or any other service connected therewith.

9. And that you have not directly or indirectly paid or promised anything to any person, either to induce him to vote or to refrain from voting at this election. So help you God.

NOTE.—(1) If the voter is a person who may by law affirm in civil cases then for “swear” substitute “solemnly affirm.”

(2) Insert here the day of the first sitting held for the registration of Manhood Suffrage Voters, on which the poll book is based.

(3) In case the voter has been temporarily absent for any of the purposes allowed by law, insert the words following, “except occasionally or temporarily in the prosecution of your occupation as (*mentioning, as the case may be, a lumberman or mariner, or fisherman, or in attendance as a student in an institution of learning in the Dominion of Canada, naming the institution.*)”

57 V. c. 4, Form 16 A.

FORM 18.

(Referred to in Section 98.)

FORM OF OATH TO BE ADMINISTERED TO A VOTER IN UNORGANIZED TERRITORY WHERE THERE IS NO ASSESSMENT ROLL.

1. You swear (1) that you are the person named or intended to be named by the name of _____ in the list of voters now shown to you in the poll book.

2. That you are a British subject by birth or naturalization.

3. That you have resided within this Province for nine months before the (2) first day of June, 18 ____.

4. That you were at the date aforesaid in good faith a resident of and domiciled in this electoral district, and that you have resided in this electoral district continuously from the said date (3), and that you are now actually residing and domiciled therein.

5. That you are entitled to vote at this election and at this polling place.

6. That you are of the full age of twenty-one years.

7. That you have not voted before at this election, either at this or any other polling place.

8. That you have not received anything, nor has anything been promised you either directly or indirectly, either to induce you to vote at this election or for loss of time, travelling expenses, hire of team or any other service connected therewith.

9. And that you have not directly or indirectly paid or promised anything to any person, either to induce him to vote or to refrain from voting at this election. So help you God.

(1) If the voter is a person who may by law affirm in civil cases then for “swear” substitute “solemnly affirm.”

(2) The date to be here inserted is the first day of June in the year in which the last voters’ list was prepared.

(3) In case the voter has been temporarily absent for any of the purposes allowed by law, insert the words following, “except occasionally or temporarily in the prosecution of your occupation as (*mentioning, as the case may be, a lumberman or mariner or fisherman or in attendance as a student in an institution of learning in the Dominion of Canada, naming the institution.*)”

55 V. c. 3, Form 16, as in effect varied by 55 V. c. 2, s. 2,

FORM 19.

(Referred to in Section 98.)

FORM OF OATH OF UNENFRANCHISED INDIAN VOTING AS OWNER, TENANT OR OCCUPANT OF REAL ESTATE WHERE THERE IS AN ASSESSMENT ROLL.

1. You swear (1) that you are the person named or intended to be named by the name of _____ on the list of voters now shewn (2) to you in the poll book.

2. That on the (3) _____ day of _____ 18 _____, you were actually, truly and in good faith possessed to your own use and benefit, as either owner, tenant or occupant, in your own right or in the right of your wife of the real estate in respect of which your name is as aforesaid entered on the said list of voters in the poll book, and are as such entitled to vote at this election.

3. That you do not reside among Indians or on an Indian reserve.

4. That you are actually and in good faith a resident of and domiciled within this electoral district ;

5. That you are of the full age of twenty-one years ;

6. That you are a subject of Her Majesty either by birth or by naturalization ;

7. That you have not voted before at this election, either at this or any other polling place ;

8. That you have not received anything nor has anything been promised you either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith ;

9. And that you have not directly or indirectly, paid or promised anything to any person, either to induce him to vote, or to refrain from voting, at this election. So help you God.

(1) If the voter is a person who may by law affirm in civil cases, then for "swear" substitute "solemnly affirm."

(2) The Deputy Returning Officer should hereupon shew the voters' list in the poll book to the voter.

(3) The date to be here inserted in administering the oath is AT THE CHOICE OF THE VOTER to be EITHER the day certified by the Clerk of the Municipality to be the date of the RETURN by the Assessor of the assessment roll upon which the voters' list in the poll book is based ; or the day so certified to be the date when by law the said roll was to be considered and taken as FINALLY REVISED.

55 V. c. 3, Form 17, varied to accord with 55 V. c. 3, s. 7c.

FORM 20.

(Referred to in Section 98.)

FORM OF OATH OF UNENFRANCHISED INDIAN VOTING AS OWNER, TENANT OR OCCUPANT OF REAL ESTATE WHERE THERE IS NO ASSESSMENT ROLL.

1. You swear (1) that you are the person named or intended to be named by the name of _____ on the list of voters now shown (2) to you in the poll book.

2. That on the first day of June, 18 (3), you were actually, truly and in good faith possessed to your own use and benefit, as either owner, tenant or occupant, in your own right or in the right of your wife of real estate of the value of \$100, being the real estate in respect of which your name is as aforesaid entered on the said list of voters in the poll book, and are as such entitled to vote at this election.

3. That you do not participate in the annuities, interest moneys or rents of any tribe, band or body of Indians, and do not reside among Indians or on an Indian reserve.

4. That you are actually and in good faith a resident of and domiciled within this electoral district.

5. That you are of the full age of twenty-one years.

6. That you are a subject of Her Majesty either by birth or naturalization.

7. That you resided within this Province for the nine months next preceding the first day of June, 18 (3).

8. That you have not voted before at this election, either at this or any other polling place.

9. That you have not received anything nor has anything been promised you either directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected therewith.

10. And that you have not directly or indirectly, paid or promised anything to any person, either to induce him to vote, or to refrain from voting, at this election. So help you God.

(1) If the voter is a person who may by law affirm in civil cases, then for "swear" substitute "solemnly affirm."

(2) The Deputy Returning Officer should hereupon shew the voters' list in the poll book to the voter.

(3) The date to be here inserted in administering the oath is the first day of June in the year in which the last voters' list was prepared.

55 V. c. 3, Form 17, as in effect varied by 55 V. c. 2, s. 2.

FORM 21.

(Referred to in Section 112 (7).)

STATEMENT OF THE POLL AFTER COUNTING THE BALLOT PAPERS.

COUNTED.					
(1)	Ballot papers counted for Mr	.....	.....	.....	.....
"	" " " Mr	.....	.....	.....	.....
"	" " " Mr	.....	.....	.....	.....
"	" " " Mr	.....	.....	.....	.....
REJECTED.					
(2)	(a) Number of papers rejected as wanting signature or initials of Deputy Returning Officer	.....	.....	.....	.....
	(b) Number of papers rejected as voting for more candidates than entitled to	.....	.....	.....	.....
	(c) Number of papers rejected as having a writing or mark by which they could be identified	.....	.....	.....	.....
	(d) Number of papers rejected as unmarked or void for uncertainty	.....	.....	.....	.....
	Total number of persons voting	.....	.....	.....	.....

(Signed) Deputy Returning Officer.

(Signed) Poll Clerk.

Dated this

day of

A.D., 189

55 V. c. 3, Form 18.

FORM 22.

(Referred to in Section 118.)

BALLOT PAPER ACCOUNT.

Received from Returning Officer.

Ordinary Ballot Papers	
Tendered Ballot Papers	

Manner in which Ballot Papers dealt with.

(1)	Number Counted	Packets A and B .....	.....
(2)	“ Rejected	Packet C .....	.....
(3)	“ Unused	Packet D .....	.....
(4)	“ Spoiled	Packet E .....	.....
(5)	“ Tendered Ballot Papers	Packet F .....	.....
(6)	“ Ballot Papers given to Voters who afterwards returned the same de- clining to vote	} Packet G .....	.....
(7)	“ Declaration of “Inability to read” and “Physical incapacity” and all cer- tificates received by Deputy-Returning Officer		
(8)	“ Ballot Papers taken from the polling place .....		.....

(Signed)
Deputy Returning Officer.

Dated this day of A.D., 189 .

NOTE.—The several "Packets" mentioned above are those referred to in section 116 of this Act.

55 V. c. 3, Form 19.

FORM 23.

(Referred to in Section 106.)

FORM OF DECLARATION OF INABILITY TO READ.

I, A. B., of _____, being numbered _____ on the list of voters for Polling Subdivision No. _____, in the Electoral District of _____, do hereby declare that I am unable to read [or that I am from physical incapacity unable to mark a ballot paper, (as the case may be.)]

A. B. (His \times mark.)

The day of A D. 18

55 V. c. 3 Form 22.

FORM 24.

(Referred to in Section 106.)

FORM OF ATTESTATION CLAUSE TO BE WRITTEN UPON OR ANNEXED TO THE
DECLARATION OF INABILITY TO READ.

I, the undersigned, being the Deputy Returning Officer for Polling
Subdivision No. _____ for the Electoral District of _____
do hereby certify that the above *(or as the case may be)* declaration, having
been first read to the the above named *A. B.*, was signed by him in my
presence with his mark.

(Signed) *C. D.*,
Deputy Returning Officer for Polling
Subdivision No. _____, in the Electoral
District of _____.

Dated this _____ day of _____, A.D. 18 _____
55 V. c. 3, Form 23.

Form 25.

(Referred to in Section 108.)

FORM OF OATH OF VOTER WHOSE NAME IS NOT ON THE LIST OF VOTERS.

You swear *(or solemnly affirm)* that you believe that your name ought
to have been entered upon the list of voters to be used for the
Polling Subdivision of the Township *(or as the case may be)* of
in the Electoral District of _____, at the present election, and that
your name has been improperly omitted from such list of voters.

(Add the statements necessary for voter's oath in other cases)

55 V. c. 3, Form 24.

FORM 26.

(Referred to in Section 120.)

OATH OF THE DEPUTY RETURNING OFFICER AFTER THE CLOSING
OF THE POLL.

I, the undersigned, Deputy Returning Officer for the
Polling Subdivision of the Township *(or as the case may be)*, of
in the Electoral District of _____, do solemnly swear that
to the best of my knowledge the annexed voters' list used in and for the
said _____ Polling Subdivision of the said _____ was so used
under my direction in the manner prescribed by law, and that the entries
required by law to be made therein were correctly made.

I further solemnly swear that my examination of the ballot papers after
the closing of the polling to ascertain that they were the ballot papers
which I had supplied, was made and completed before opening the ballot
papers in order to count the same, and that in making this examination I
looked at the backs only and so far only as was necessary for the said
purpose, and without opening any ballot paper, or seeing, or permitting
any one to see the front thereof.

And I solemnly swear that at the counting of the ballots at the close of the polling I kept the ballot papers with their printed faces upwards as required by law; that I took all proper precautions for preventing any person from seeing the numbers printed on the back of the ballot papers; that I did not by any means whatever attempt at the counting to ascertain, or permit myself to ascertain, the number on the back of any ballot paper.

I further solemnly swear that I have not by any means whatever attempted to ascertain for whom any person at this election voted; and that I did not permit any other person to obtain at any time any information as to any of the said particulars.

I further solemnly swear that I have not communicated and will not hereafter communicate to any person directly or indirectly any information as to how any voter voted or any information which might or may enable or assist any person to ascertain how any person has voted. And lastly, that the within statement of the poll and ballot paper account are correct in every particular to the best of my knowledge and belief.

(Signed) C. D.,
Deputy Returning Officer.

Sworn and subscribed before me at
this day of , A.D. 18 .

(Signed) X. Y.,
Justice of the Peace.

Or A. B.,
Returning Officer.

Or C. D.,
Election Clerk.

NOTE.—Where the deponent is one of the persons permitted by law to affirm in civil cases, he may solemnly affirm.

55 V. c. 3, Form 25.

FORM 27.

OATH OF THE POLL CLERK AFTER THE CLOSING OF THE POLL.

(Referred to in Section 121.)

I, the undersigned, Poll Clerk for the Polling Subdivision of , in the Electoral District of , do solemnly swear that the annexed voters' list used in and for the said Polling Subdivision of the said under the direction of , who has acted as Deputy Returning Officer for such Polling Subdivision, has been so used by me under his direction as aforesaid, and that the entries required by law to be made therein have been so made by me correctly and to the best of my skill and judgment.

And I solemnly swear that I have not attempted by any means whatever to see or ascertain at the counting of the ballot papers the number on the back of any ballot paper; and that I have not by any means whatever attempted to ascertain for whom any voter at this election voted.

I further solemnly swear that I have not communicated, and will not hereafter communicate, to any person directly or indirectly any information as to the candidate for whom any vote has been or shall be given, or any information which may enable any person to ascertain how any person has voted. And lastly, that the within statement of the poll is correct in every particular to the best of my knowledge and belief.

(Signed) E. F.,
Poll Clerk.

Sworn and subscribed before me at this
day of , A.D. 18 .

(Signed) X. Y.,
Justice of the Peace, (or, Deputy Returning Officer),
(or as the case may be).

NOTE.—Where the deponent is one of the persons permitted by law to affirm in civil cases, he may solemnly affirm.

55 V. c. 3, Form 26.

FORM 28.

(Referred to in Section 156).

OATH OF SECRECY.

I, the undersigned,
solemnly promise and swear that I will not attempt to ascertain, and will not by any means in my power permit any other person to ascertain, how any person is about to vote or shall have voted at the election save and except what may be necessary and proper in the case of blind persons or persons unable to read, or incapable of marking their ballot papers as provided in the 106th section of *The Ontario Election Act*.

I further solemnly swear that I will not communicate to any person any information of any kind which may enable or assist any person to ascertain the candidate for whom any person has voted.

I further solemnly swear that I will in all respects maintain, and aid in maintaining, the absolute secrecy of the voting at the polling place.

So help me God.

NOTE.—Where the deponent is one of the persons permitted by law to affirm in civil cases, he may solemnly affirm.

55 V. c. 3, Form 27.

FORM 29.

(Referred to in Section 117.)

OATH BY MESSENGER WHERE THE DEPUTY RETURNING OFFICER IS UNABLE TO
DELIVER PACKETS TO THE RETURNING OFFICER.

I, _____ solemnly swear that I am
the person to whom
Deputy Returning Officer for the Polling Division of the
of _____ in the Electoral District of
delivered the election packets for the said Polling Division, to be delivered
to _____, Returning Officer for the said Electoral District,

in consequence of the said Deputy being unable through illness or some other cause to deliver the same personally to the Returning Officer ; that the packets which I have delivered to the said Returning Officer this day are all the packets I so received ; that I have not opened any of them, and that they have not been opened by any other person since I received them from the said Deputy Returning Officer.

So help me God.

Sworn and sub-
scribed, etc. }

NOTE.—Where the deponent is one of the persons permitted by law to affirm in civil cases, he may solemnly affirm.

55 V. c. 3, Form 28.

FORM 30.

(Referred to in Section 135 (2).)

OATH TO BE TAKEN BY RETURNING OFFICER AFTER TRANSMITTING HIS RETURN TO THE CLERK OF THE CROWN IN CHANCERY.

I, _____ Returning Officer for the Electoral District of _____ swear that, of the packets received by me as such Returning Officer from the Deputy Returning Officers in respect of the recent election of a member of the Legislative Assembly for the said Electoral District, I have not opened or permitted to be opened, any of the packets containing the ballot papers or the counterfoils ; that I have not opened, or permitted to be opened, any of the packets so received except those authorized and directed to be opened by a Returning Officer by and under section 123 of *The Ontario Election Act* ; and that none of the other packets were opened by any person since they were returned to me by the Deputy Returning Officers. (*Or, in case of there having been a recount by the County Judge, add, except by the county judge on a recounting of the votes by the said judge.*)

I further swear that I have not attempted to ascertain, and have not ascertained, from the ballot papers or other contents of any of the said packets how any person voted.

I further swear that I have this day and before swearing to this oath, transmitted to the clerk of the Crown in Chancery my return with respect to the said election, as required by law.

So help me God.

Sworn and sub-
scribed, etc. }

NOTE.—Where the deponent is one of the persons permitted by law to affirm in civil cases, he may solemnly affirm.

55 V. c. 3, Form 29.

SCHEDULE B.

FEES OF RETURNING OFFICERS, ETC.

*(Referred to in Section 203.)**Returning Officers—Rural Electoral Districts.*

1. Drawing Proclamation *one dollar.*
2. Paid printing fifty copies *actual cost.*
3. Mileage on posting same, for each mile necessarily travelled from place to place, to be taxed as Sheriff's mileage on summoning jurors *ten cents per mile.*
4. Holding election and making return (if no contest), including appointment and swearing of Election Clerk *ten dollars.*
5. Election Clerk, one day *two dollars.*
6. Two constables, one day (each) *one dollar.*

And the following additional charges in contested cases :

7. Appointing Deputies, and swearing them (each) *fifty cents.*
8. Furnishing copies of Voters' Lists, when necessary *as allowed by The Ontario Voters' Lists Act.*
9. Mileage to deliver same to Deputies, when necessary ; only one mileage for both, to be taxed as above, per mile *ten cents.*
10. Making up and transmitting returns to the Clerk of the Crown in Chancery (including duplicates to each candidate, and all other necessary services connected therewith) *ten dollars.*
11. For services under sections 132 and 133, such amount as the Lieutenant-Governor may think reasonable under the circumstances of the case.
12. Postage *amount actually paid out.*
13. Pay of Election Clerk, one day *two dollars.*
14. Mileage of Returning Officer, and Election Clerk, going to and returning from the election on nomination day (each) *ten cents for every mile necessarily travelled.*

Deputy Returning Officers.

15. Taking the polls, including all the services connected therewith, and making returns *four dollars.*

16. Paid Poll Clerk, one day.....*two dollars.*

17. And one constable, one day.....*one dollar.*

18. For each polling booth, *actual cost, not exceeding four dollars.* to be paid by the Township Treasurer, on the order of the Deputy Returning Officer, unless the Township Council provide suitable polling places at their own expense.

In Cities and Towns.

19. To Returning Officers, in cities and towns, holding election and making returns, when no contest (exclusive of actual charge for printing.)*ten dollars.*

20. When election contested (exclusive of actual charge for printing) ..
..... *twenty dollars.*

21. To Deputy Returning Officers, Election Clerks, Poll Clerks and Constables, the same charge as at rural elections; and the like charge paid in the same manner, for polling booths, as in rural polling places.

CHAPTER 10.

An Act to secure the Prompt Punishment of Persons guilty of Personation at Elections for the Legislative Assembly.

APPLICATION OF ACT, s. 1.
MODE OF RECOVERING PENALTY, s. 2.
WHEN PERSON CHARGED BEFORE
REGISTRAR OR DEPUTY RE-
TURNING OFFICER, ss. 3, 4.
WARRANT, ss. 5-7.
AUTHORITY OF REGISTRAR'S CLERK
AND POLL CLERK, s. 8.

APPOINTMENT OF SPECIAL CON-
STABLES, s. 8.
FORMS AUTHORIZED, s. 9.
COUNTY CROWN ATTORNEY TO SUP-
PLY FORMS, ss. 10, 11.
PENALTY FOR OFFICERS' CONTRA-
VENTION OF ACT, s. 12.

HER MAJESTY, by and with the advice and consent of
of the Legislative Assembly of the Province of Ontario,
enacts as follows:—

Application
of Act.

1. This Act applies to every City, Town and Incorporated Village for which there is a Police Magistrate. 57 V., c. 7, s. 1.

Mode of
recovering
penalty.
Rev. Stat.
cc. 8 and 9.

2.—(1) In case an information for the offence of personation under *The Manhood Suffrage Registration Act* is laid before a Registrar under the said Act, or in case an information for the said offence under *The Ontario Election Act* is laid before a Deputy Returning Officer, and a warrant for the arrest of the offender is issued by such officer, under this Act, the punishment or penalty imposed by law, and which shall hereafter extend to the offence of personation under the said *Registration Act*, may be imposed or recovered in a summary manner before the Police Magistrate of the city, under chapter 90 of the Revised Statutes of Ontario, and every warrant purporting to have been issued by a Registrar or Deputy Returning Officer aforesaid shall *prima facie* be presumed to have been issued under this Act.

Imprisonment
on default of
fine.

(2) If the person charged is convicted before the Police Magistrate and fails to pay the penalty forthwith, or within such time as may be limited by the Magistrate, together with the costs, if costs are imposed by the Magistrate, the person convicted shall be imprisoned for a period not exceeding one year and not less than three months, either with or without hard labour, unless the penalty and the costs imposed shall be sooner paid. 57 V., c. 7, s. 2.

3. Where a person is charged at a place of registration under *The Manhood Suffrage Registration Act*, or at a polling place with having committed the offence of personation, the Registrar or Deputy Returning Officer at such place may take the information on oath of the person making the charge, and it shall be the duty of the Registrar or Deputy Returning Officer to take the information, as aforesaid, when requested so to do on behalf of any of the candidates. 57 V., c. 7, s. 3.

Registrar or deputy returning officer to take informations.

Rev. Stat. c. 8.

4. If a person against whom it is proposed to lay an information for personation has not left the place for registration or the polling place, the Registrar or Deputy Returning Officer may, either on his own motion or at the request of any one proposing forthwith to lay an information against such person, detain or direct the detention of such person until an information can be drawn up. 57 V., c. 7, s. 4.

Detaining offender while information is drawn up.

5. In case an information is laid charging any person with the offence of personation, as aforesaid, the Registrar may on any day during which a sitting for registration is held, or the Deputy Returning Officer may on the polling day, but not afterwards, issue his warrant for the arrest of the person so charged, in order that he may be brought before the Police Magistrate to answer to the said information and to be further dealt with according to law. 57 V., c. 7, s. 5.

Warrant for arrest of offender.

6. The said warrant shall be sufficient authority for any constable, peace officer or gaoler to detain any such person until he is brought before the Magistrate, as aforesaid. 57 V., c. 7, s. 6.

Warrant to be sufficient authority to constable, etc.

7. In case the correct name of the person charged with the offence is unknown to the informant, it shall be sufficient in the information and other proceedings to describe the person charged as a person whose name is to the informant unknown, but who is detained under the order of the Registrar or Deputy Returning Officer, or the person charged may be described in such other manner as may suitably identify him. When the name of the person so charged is ascertained, such name shall be stated in any subsequent warrant or proceeding. 57 V., c. 7, s. 7.

When name of person charged is unknown.

8. Every Registrar's Clerk and every Poll Clerk shall have the authority of a constable for the purpose of carrying out the provisions of this Act; and every Registrar or Deputy Returning Officer may appoint such special constables as he deems necessary for the like purpose; and such persons shall have full power to act without taking any oath. 57 V. c. 7, s. 8.

Authority of certain officers

9. Informations or warrants in respect of the said offence may be in accordance with the forms in the Schedule hereto,

Form of information and warrant.

or to the like effect, but it shall not be necessary that a warrant issued by a Registrar or Deputy Returning Officer should have a seal affixed thereto, and the omission of a seal, where a warrant purports to be sealed, shall not invalidate the warrant. 57 V., c. 7, s. 9.

County Crown
Attorney to
supply forms.

10. Every County Crown Attorney shall procure and keep on hand a sufficient supply of printed forms of informations and warrants suitable for facilitating action being taken under this Act, and shall upon the request of the Chairman of a Board of Manhood Suffrage Registrars furnish him with as many of such forms as such Chairman deems necessary for the use of the Registrars, and shall upon the request of the Returning Officer furnish him with as many of such forms as the Returning Officer deems necessary for the use of the Deputy Returning Officers; and every Returning Officer shall, before the polling day, furnish each Deputy Returning Officer with at least ten of said forms of information and ten of said forms of warrant. 57 V., c. 7, s. 10.

Allowance to
county crown
attorney for
supplying
forms.

11. For providing the said forms and furnishing the same to the said officers, the County Crown Attorney shall be allowed the sum of \$4 for each election for which such forms are so supplied, to be paid on the production of the receipts of the Chairman and Returning Officer. The said fees and the disbursements of the County Crown Attorney in obtaining the said forms shall form part of the expenses of criminal justice. 57 V., c. 7, s. 11.

Money pen-
alty for
offences.

12. Every officer or clerk who is guilty of any wilful misfeasance, or any wilful act or omission in contravention of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act or omission, a penal sum of \$400. 57 V. c. 7, s. 13.

SCHEDULE.

FORM 1.

Information on Oath for the Offence of Personation at a place of Registration of Manhood Suffrage Voters.

Province of Ontario, } The information of *James Thompson* of the city
County of *Middlesex*, } of *London*, *Carpenter*, laid this *5th* day of *June*,
City of *London*, } A.D. *1894*, before the undersigned, a registrar
To Wit : } under *The Manhood Suffrage Registration Act*,
for the city of *London*.

The said informant says that he believes that *John Williams* (1) on this day at a sitting held in the city of *London* at a place of registration in the said city for the registration of voters under the said Act did commit the offence of personation contrary to the said Act for that the said *John Williams* (2) did (3) at the said time and place apply to be registered in the name of another person, that is to say in the name of *John Smith*.

Taken and sworn (4) before me at the said place of registration and on the day and year above mentioned. W. J.

NOTE.—(If the name of the person charged is unknown to the informant substitute “a person whose name to the informant is unknown, but who is now detained in the said place of registration under my order.”)

(2) Or “the said person aforesaid whose name is unknown.”

(3) Or, “did at the same time and place apply to be again registered under the said Act although he had within twenty nine days previously been registered in the said electoral district,” (or as the case may be),

(4) Or, if the informant is a person who may by law affirm in civil cases then for “sworn” substitute “solemnly affirmed.”

FORM 2.

Information on Oath for the Offence of Personation at a Polling Place.

Province of Ontario, } The information of *James Thompson* of the
County of *Middlesex*, } city of *London*. *Carpenter*, laid this *5th* day of
City of *London*, } *June*, A. D. *1894*, before the undersigned, a
To Wit : } deputy returning officer at a polling place held in
the city of *London* for an election being held to choose a member of the
Legislative Assembly of Ontario for the electoral district of the city of
London.

The said informant says that he believes that *John Williams* (1) on this day at the said polling place did commit the offence of personation contrary to the election law of Ontario, for that the said *John Williams* (2) did (3) at the said time and place apply for a ballot paper in the name of another person, that is to say in the name of *John Smith*.

Taken and sworn (4) before me at the said polling place and on the day and year above mentioned.

W. J.

NOTE.—(1) If the name of the person charged is unknown to the informant substitute “a person whose name is to the informant unknown, but who is now detained in the said polling place under my order.”

(2) Or, “the said person aforesaid whose name is unknown.”

(3) Or, “did at the same time and place apply for a ballot paper in his own name although he had previously voted at the same election.”

(4) Or, if the informant is a person who may by law affirm in civil cases then for “sworn” substitute “solemnly affirmed.”

FORM 3.

Warrant for Offence at Place of Registration.

Province of Ontario, } To all or any of the constables and other
 County of *Middlesex*, } peace officers in the county of *Middlesex* and *city*
City of London, } of *London*.

To Wit: } Whereas information on oath (or solemn
 affirmation) has this day been laid before the undersigned a registrar for
 the *city of London* under *The Manhood Suffrage Registration Act*,
 for that *John Williams* (1) on this day at a sitting held in the *city*
 of *London* at a place of registration in the said *city* for the registration of
 voters under the said Act, did commit the offence of personation contrary
 to the said Act, for that the said *John Williams* (2) did at the said time
 and place apply to be registered in the name of another person, that is to
 say *John Smith* (or as the case may be);

These are therefore to command you in Her Majesty's name forthwith
 to apprehend the said *John Williams* and to bring him before the police
 magistrate of the said *city* to answer to the said information and to be
 further dealt with according to law.

Given under my hand this
 A.D. 18

day of

W. J.

NOTE.—(1) *If the name of the person charged is unknown substitute* “a person
 whose name is unknown, but who is now detained in the said place of registra-
 tion by my order and is being delivered into the custody of G. D., a constable
 of the said *city*.”

(2) *Or* “the said person aforesaid whose name is unknown.”

FORM 4.

Warrant for Offence at Polling Place.

Province of Ontario, } To all or any of the constables and other peace
 County of *Middlesex*, } officers in the county of *Middlesex* and *city* of
City of London, } *London*;

To Wit: } Whereas information on oath (or solemn
 affirmation) has this day been laid before the undersigned, a deputy
 returning officer at a polling place held in the *city* of *London* for an elec-
 tion being held to choose a member of the Legislative Assembly of Ontario
 for the electoral district of the *city* of *London* for that *John Williams* (1)
 on this day at the said polling place did commit the offence of persona-
 tion, contrary to the election law of Ontario, for that the said *John*
Williams (2) did at the said time and place apply for a ballot paper in the
 name of another person, that is to say in the name of *John Smith* (or as
 the case may be);

These are therefore to command you in Her Majesty's name forthwith
 to apprehend the said *John Williams* and to bring him before the police
 magistrate of the said *city* to answer to the said information, and to be
 further dealt with according to law.

Given under my hand and seal this
 A. D. 18

day of

W. J.

NOTE.—(1) *If the name of the person charged is unknown substitute* “a person
 whose name is unknown, but who is now detained in the polling place and is being
 delivered into the custody of G. D., a constable of the said *county*.”

(2) *Or*, “the said person aforesaid whose name is unknown.”

CHAPTER 11.

An Act respecting Controverted Elections of Members of the Legislative Assembly.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

"The Court," s. 2 (1).

"Member," s. 2 (2).

"Election," s. 2 (3).

"District," s. 2 (4).

"Candidate," s. 2 (5).

"Corrupt practices," s. 2, (6).

"Rules of Court," s. 2 (7).

"Prescribed," s. 2, (8).

"The Speaker," s. 2 (9).

PRESENTATION OF ELECTION PETITIONS.

By whom, ss. 3-7.

Form of petition, s. 8.

When and how presented, ss. 9, 10.

Petition and particulars to be verified, s. 11.

Copy to be sent to Returning Officer and published by him, s. 12.

SECURITY FOR COSTS, ss. 13, 14.

PETITION TO BE SERVED, s. 15.

LIST OF PETITIONS, s. 16.

PRELIMINARY EXAMINATION OF PARTIES, ss. 17-26.

PRODUCTION AND INSPECTION OF DOCUMENTS, ss. 27-30.

TRIAL OF PETITIONS—

Rota of Judges for trial of petitions, ss. 31-36.

Allegations of corrupt practices to be tried by two Judges, s. 37.

Other allegations by one Judge, s. 38.

Place of trial, ss. 39, 40.

Notice of trial, s. 41.

Reception of Judge, s. 42.

Powers of Judges, ss. 43, 44.

Trial not to be stopped by acceptance of office, etc., s. 45.

Application to change petitioner where delay in fixing day for trial, s. 46.

Time within which trial to be commenced, ss. 47, 48.

Evidence as to corrupt practices, s. 49.

Cross evidence where petition claims the seat, s. 50.

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JUDGE'S REPORT—

Report of determination of case to the Speaker, s. 55.

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Action of Legislative Assembly upon report, ss. 61, 62.

If election held void member not to sit pending appeal, s. 63.

Writ not to issue pending appeal, s. 64.

SPECIAL CASES MAY BE STATED, s. 65.

APPEALS—

Procedure on, ss. 66-68.

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Amending proceedings and receiving further evidence, ss. 70, 71.

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Certificate of Judgment to be sent to Speaker, s. 73.

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Judgment final, s. 75.

SCRUTINY OF VOTES—

Procedure, ss. 76-81.

Appeal from Registrar, ss. 83-85.

WITHDRAWAL OF PETITION, BY PETITIONER, ss. 86-93.

ABATEMENT OF PETITION BY DEATH OF PETITIONER, ss. 94-96.

SUBSTITUTION OF PETITIONERS OR RESPONDENTS, ss. 88, 97-99.

WITHDRAWAL OF RESPONDENT FROM OPPOSITION, DOUBLE RETURN, ss. 100, 101.

COSTS, ss. 72, 102-111.

RULES OF COURT, ss. 112, 113.

MISCELLANEOUS—

Punishment of contempt, s. 114.

Computation of time, s. 115.

Who may practise as solicitors, etc., s. 116.

Expenses of the Judge, etc., s. 117.

Prosecution of persons reported, s. 118.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

- Short title. 1. This Act may be cited as "*The Ontario Controverted Elections Act.*" R. S. O. 1887, c. 10, s. 1.
- Interpretation. 2. Where the words following occur in this Act, or in the schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears.
- "The Court." 1. "The Court" shall for the purposes of this Act mean the Court of Appeal; and such Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with reference to an election petition and the proceedings thereon as the High Court of Justice would have if such petition were an ordinary action within the jurisdiction of that Court, and the practice and proceedings, including the mode of enforcing decisions as to costs and otherwise, shall in all respects be the same as at present until altered by the Court of Appeal, as provided by this Act.
- Practice as heretofore, till varied. 1. "The Court" shall for the purposes of this Act mean the Court of Appeal; and such Court shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority with reference to an election petition and the proceedings thereon as the High Court of Justice would have if such petition were an ordinary action within the jurisdiction of that Court, and the practice and proceedings, including the mode of enforcing decisions as to costs and otherwise, shall in all respects be the same as at present until altered by the Court of Appeal, as provided by this Act.
- "Member." 2. "Member" shall mean a member of the Legislative Assembly.
- "Election." 3. "Election" shall mean an election of a member to serve in the Legislative Assembly.
- "District." 4. "District" shall mean an Electoral District returning a member.
- "Candidate," and saving for persons nominated without consent. 5. "Candidate at an election" and "candidate" respectively shall mean any person elected at an election to serve in the Legislative Assembly, and any person who is nominated as a candidate at an election, or is declared by himself or by others to be a candidate, on or after the day of the issue of the writ for an election, or after the dissolution or vacancy in consequence of which the writ has been issued; Provided that where a person has been nominated as a candidate, or declared to be a candidate by others, then—
- (a) If he was so nominated or declared without his consent, nothing in this Act shall be construed to impose any liability on such person, unless he has afterwards given his assent to such nomination or declaration or has been elected.
- "Corrupt practices" and "corrupt practice." 6. "Corrupt practices," or "corrupt practice," shall mean bribery, treating and undue influence, or any of such offences, as defined by this or any Act of the Legislature, or recognized by the Common Law of the Parliament of England; also any violation of sections 161, 165 or 167 of *The Ontario Election Act*; and any violation of section 170 of the last mentioned Act during the hours appointed for polling.
- Furnishing entertainment. Hiring Vehicles. Personation. Selling liquor.

7. "Rules of Court" shall mean Rules made as mentioned "Rules of Court."
in sections 112 and 113 of this Act.

8. "Prescribed" shall mean prescribed by the Rules of Court. "Prescribed."

9. "The Speaker" shall mean the Speaker of the Legislative "The Speaker."
Assembly, or, when the office of Speaker is vacant, the Clerk of the Legislative Assembly, or any other officer for the time
being performing the duties of the Clerk of the Legislative
Assembly. R. S. O. 1887, c. 10, s. 2.

PRESENTATION OF PETITION.

3. A petition complaining of the undue return or undue election of a member, may be presented to the Court by any one or more of the following persons: By whom an election petition may be presented;

(a) Some person who voted, or who had a right to vote, at the election to which the petition relates; or by voter,

(b) Some person claiming to have had a right to be returned or elected at such election; or by a person claiming to be elected,

(c) Some person alleging himself to have been a candidate at such election; by a candidate.

and such petition is hereinafter referred to as an election petition. R. S. O. 1887, c. 10, s. 3.

4. Two or more candidates may be made respondents to the same petition, and their case may, for the sake of convenience, be tried at the same time; but for all the purposes of this Act, such petition shall be deemed to be a separate petition against each respondent. R. S. O. 1887, c. 10, s. 4. Joint respondents to petition.

5. Where an election petition under this Act complains of the conduct of a Returning Officer, the Returning Officer shall, for all the purposes of this Act, except the admission of respondents in his place, be deemed to be a respondent. R. S. O. 1887, c. 10, s. 5. Petition complaining of a Returning Officer.

6. A petition under this Act complaining of no return may be presented to the Court, and shall be deemed to be an election petition within the meaning of this Act, and the Court may make such order thereon as it thinks expedient for compelling a return to be made, or may allow such petition to be tried by the Judge in manner hereinbefore provided with respect to ordinary election petitions. R. S. O. 1887, c. 10, s. 6. Petition complaining of no return.

7. In case a petition is presented against the return of a member, the respondent or any other person authorized by law to present an election petition, may, within fifteen days after the service of the petition against the return, file a petition complaining of any unlawful and corrupt act by any candidate at the same election who was not returned, whether the seat is Cross petition on account of corrupt acts, against candidate not returned.

or is not claimed by him or on his behalf, and the trial of such petition shall take place at the same time as the trial of the petition against such member or respondent, or at such other time as may be appointed. R. S. O. 1887, c. 10, s. 7.

Form of petition, and by whom to be signed.

8. A petition under this Act shall be in such form, and state such matters as may be prescribed, and shall be signed by the petitioner, or all the petitioners if there are more than one. R. S. O. 1887, c. 10, s. 8.

Petition when to be presented.

9. The petition shall be presented within twenty-one days after the return has been made to the Clerk of the Crown in Chancery of the member to whose election the petition relates, unless it questions the return or election upon an allegation of corrupt practices, and specifically alleges a payment of money or other act of bribery to have been committed by the member or on his account, or with his privity, since the time of the return, in pursuance or in furtherance of such corrupt practices, in which case the petition may be presented at any time within twenty-eight days after the date of such payment or acts committed. R. S. O. 1887, c. 10, s. 9.

Presentation of petition.

10. Presentation of a petition shall be made by delivering it to the Registrar of the Court, or otherwise dealing with the same in manner prescribed. R. S. O. 1887, c. 10, s. 10.

Petition and particulars to be verified on oath.

11. With every election petition shall be filed an affidavit by the petitioners, referring to or annexed to the petition, and stating that the deponents present the petition in good faith, and have reason to believe and do believe the statements contained in the petition to be true in substance and in fact; all particulars afterwards furnished by either party shall be verified in like manner on oath by the persons furnishing the same, or one of them. R. S. O. 1887, c. 10, s. 11.

Publication of notice of petition.

12.—(1) On presentation of the petition, the Registrar of the Court shall send a copy thereof by mail to the Returning-Officer of the Electoral District to which the petition relates, who shall forthwith publish a notice thereof once in a newspaper published in the district, or, if there be no newspaper published in the district, then in a newspaper published in an adjoining district.

Form of notice.

(2) The notice to be published, under the next preceding sub-section, may be in the form following:—

“ Notice is hereby given that _____ has presented a petition to the Court of Appeal for Ontario, under *The Ontario Controverted Elections Act*, against the return of _____

_____, Esquire, as member of the Provincial Legislative Assembly for the district of _____, [and (where the seat is claimed), claiming the seat for _____]

Dated at _____ the _____ day of _____ 18 ____.

Returning Officer.

54 V. c. 6, s. 1.

SECURITY FOR COSTS.

13. At the time of the presentation of a petition under sections 3 to 7 of this Act, or within three days afterwards, security shall be given on behalf of the petitioner for the payment of all costs, charges and expenses that may become payable by the petitioner; Security for costs.

(a) To every person summoned as a witness on his behalf; or Of witnesses.

(b) To the member or candidate against whom the petition is presented, who is hereafter referred to as the respondent. Of respondent.
R. S. O. 1887, c. 10, s. 13. 58 V. c. 4, s. 5.

14.—(1) The security shall be by a deposit of \$1,000, in one of the banks in which Government money is then being deposited; the deposit shall be made to the credit of the election petition, with the privity of the Accountant of the Supreme Court. Security to be by deposit of \$1,000.

(2) Subject to any Rules of Court all moneys required to be paid into or out of the said Court under any order, judgment, statute, rule of Court, or otherwise, shall be paid in and paid out in like manner as moneys are paid into and out of Court in actions pending in the High Court. R. S. O. 1887, c. 10, s. 14. Payment into court.

SERVICE.

15. Notice of the presentation of a petition under this Act accompanied with a copy of the petition, shall, within five days after the day on which security for costs is given, or within such longer time as the Court may, on application made within three days after the expiration of such five days, under special circumstances of difficulty in effecting service allow, be served by the petitioner on the respondent, as nearly as may be in the manner in which a writ of summons is served, or in such other manner as may be prescribed. R. S. O. 1887, c. 10, s. 15; 58 V. c. 4, s. 3. Serving petition on respondent.

LIST OF PETITIONS.

16.—(1) The Registrar of the Court shall, as soon as may be make out a list of all petitions presented under this Act, and which are at issue, placing them in the order in which they were presented, and shall keep at his office a copy of the list, hereinafter referred to as the election list, open to the inspection of any person making application; and the petitions, as far as conveniently may be, shall be tried in the order in which they stand in the list. Registrar to make out list of petitions at issue. Order in which petitions shall be tried.

(2) When more petitions than one are presented relating to the same election or return, all such petitions shall in the election list be bracketed together and shall be dealt with as far as may be as one petition; but the petitions shall stand on Several petitions relating to same election, how placed on election list.

the election list in the place where the last of the petitions, would have stood if it had been the only petition presented. unless the Court otherwise directs. R. S. O. 1887, c. 10, s. 16.

PRELIMINARY EXAMINATION OF PARTIES, AND PRODUCTION OF DOCUMENTS.

When and how parties to petitions may be examined.

17. Every party to an election petition, whether petitioner or respondent, may at any time after the petition is at issue, be examined by or before an examiner, in the manner hereinafter directed, by a party adverse in point of interest, touching any matter raised by the petition; and any party so examined may be further examined on his own behalf, in relation to any matter respecting which he has been examined in chief; and when one of several petitioners or respondents has been so examined, any other petitioner or respondent, united in interest, may be examined on his own behalf, or on behalf of those united with him in interest, to the same extent as the party examined; but the explanatory examination must be proceeded with immediately after the examination in chief, and not at any future period, except by leave of the Court or a Judge. R. S. O. 1887, c. 10, s. 17.

Candidate for whom seat claimed may be examined.

18. Where a petition has been filed claiming a seat for a candidate, such candidate, although not a party to the petition, may be orally examined as if he were a petitioner. R. S. O. 1887, c. 10, s. 18.

How examination of parties shall be had.

19. Any party to be examined orally, under the provisions of this Act, shall be so examined by or before a County Court Judge, or before a Registrar appointed under this Act, or before a Master or Special Examiner of the High Court, or (by consent of the parties) before a Barrister-at-law specially named in the order for examination; and the examination shall take place in the presence of the parties, their counsel, agents or solicitors; and the party so examined orally shall be subject to cross-examination and re-examination; and the examination, cross-examination and re-examination shall be conducted as nearly as may be in the mode now in use in the High Court on the trial of an action. R. S. O. 1887, c. 10, s. 19.

Depositions how taken down.

20.—(1) The depositions taken upon an oral examination as aforesaid shall be taken down in writing by the examiner, not ordinarily by question and answer, but in the form of a narrative; and when completed shall be read over to the witness, and signed by him, in the presence of the parties, or of such of them as may think fit to attend.

When witness unable to sign.

(2) In case the witness refuses or is unable to sign the said depositions, then the examiner shall sign the same; and the examiner may, upon every examination, state any special matter to the Court if he thinks fit.

(3) It shall be in the discretion of the examiner to put down any particular question or answer, if there should appear to be any special reason for so doing ; and any question or questions objected to shall, at the request of either party, be noticed or referred to by the examiner in or upon the depositions ; and he shall state his opinion thereon to the counsel, agents, solicitors, or parties ; and if requested by either party, he shall refer to such statement on the face of the depositions. R. S. O. 1887, c. 10, s. 20.

Objections
how noted.

21. When the examination before the examiner is concluded, the original depositions, authenticated by the signature of the examiner, shall be transmitted by him to the office of the Court, to be there filed ; and any party to the petition may have a copy thereof, or of any part or portion thereof, upon payment for the same in such manner as may be prescribed by the Court in that behalf. R. S. O. 1887, c. 10, s. 21.

Depositions
to be filed.

22. The attendance of a party or other person for oral examination or cross-examination before the examiner, may be required by writ of *subpœna ad testificandum* or *duces tecum*, in like manner as such party or person would be required to attend at the trial of the petition, and any party or person, upon being served with the writ, shall be bound to attend before the examiner ; but such party or person shall be entitled to the like payment for attendance and expenses, as if he had been subpœnaed to attend upon the trial. R. S. O. 1887, c. 10, s. 22.

Compelling
attendance of
witnesses.

23. The sheriff, gaoler or other officer having the custody of any prisoner, may take such prisoner for examination before the examiner, under the authority of this Act, if so ordered by the Court or a Judge. R. S. O. 1887, c. 10, s. 23.

Attendance of
prisoners as
witnesses.

24. Forty-eight hours' notice of an oral examination or cross-examination shall be given to the opposite party or parties. R. S. O. 1887, c. 10, s. 24.

Notice of
examination.

25. Every party or person who refuses or neglects to attend at the time and place appointed for his examination or cross-examination, or refuses to be sworn or to answer any lawful question put to him by the examiner, or by any party entitled to put such question, or his counsel, agent, or solicitor, may be punished as for a contempt of Court ; but if a witness demurs or objects to any question or questions put to him, the question or questions so put, and the demurrer or objection of the witness thereto, shall be taken down by the examiner, and transmitted by him to the office of the Court, to be there filed ; and the validity of the demurrer or objection shall be decided by the Court or a Judge ; and the costs of and occasioned by the demurrer or objection shall be in the discretion of the Court or Judge. R. S. O. 1887, c. 10, s. 25.

Penalty for
non-attendance or refusal of witness
to answer.

Objections to
questions.

Depositions
may be used
on trial.

26. Every party to a petition shall be entitled to use, upon the trial of a petition, depositions taken by or before the examiner, in accordance with the provisions of this Act; but where such party uses any portion of a deposition so taken, it shall be competent for the party against whom it is used to put in the entire evidence so taken, as well that in chief as that in explanation. R. S. O. 1887, c. 10, s. 26.

Production,
inspection,
and copies of
documents.

27.—(1) Every party to an election petition, whether petitioner or respondent, may, at any time after such petition is at issue, obtain an order of course upon *præcipe* requiring the adverse party to produce within ten days after the service thereof, under oath, all documents in his custody or power relating to the matters in question, saving all just exceptions, and to deposit the said documents with the Registrar of the Court; and upon the documents being produced, the party requiring their production and his agent or solicitor may inspect the same and take examined copies thereof.

(2) When a person upon whom an order to produce has been served wishes to avail himself of any such exception as above mentioned, he must in his affidavit on production assign a sufficient reason why he should not produce and deposit the same in manner aforesaid. R. S. O. 1887, c. 10, s. 27.

Service of
order to pro-
duce.

28. An order for the production of documents shall not require personal service, and it shall be sufficient to serve the same upon the agent or solicitor of the party. R. S. O. 1887, c. 10, s. 28.

Affidavit on
production.

29. The affidavit on production to be made by the party who has been served with the order for production, may be in the form or to the effect set forth in Schedule A to this Act. R. S. O. 1887, c. 10, s. 29.

Penalty for
disobeying
order.

30. Every party neglecting or refusing to obey an order for the production of documents may be punished as for a contempt. R. S. O. 1887, c. 10, s. 30.

TRIAL OF PETITIONS.

Trial to be
before Judges
selected from
the *rota*.

31. The trial of every election petition shall be conducted before a Judge or two Judges selected from a *rota* to be formed as hereinafter mentioned. R. S. O. 1887, c. 10, s. 31.

Rota of Judges
for election
petitions.

32. The Judges to be placed on the *rota* for the trial of election petitions shall be selected from the Judges of the Supreme Court of Judicature in such manner as may be provided by Rules of Court to be made for that purpose; and in the meantime, and subject thereto, shall be selected, as hitherto, that is to say: the members of the Court of Appeal, and of the Queen's Bench, Chancery and Common Pleas Divisions of the

High Court respectively, shall, on or before the third day of Michaelmas Sittings in every year, select by a majority of votes of the members of such Court or Division, one of the Judges thereof to be placed on the *rota* during the ensuing year. R. S. O. 1887, c. 10, s. 32.

33. Any Judge placed on the *rota* shall be eligible to be placed thereon in the succeeding or any subsequent year. R. S. O. 1887, c. 10, s. 33.

Judge re-eligible.

34. In the event of the death or illness of a Judge for the time being on the *rota*, or his inability to act for any reasonable cause, the Court of Appeal, when he is a member of that Court, or the Division of the High Court of which he is a member, as the case may be, shall fill up the vacancy by placing on the *rota* another Judge of the Court or Division aforesaid. R. S. O. 1887, c. 10, s. 34.

Filling up vacancies on the *rota*.

35. The Judges for the time being on the *rota* shall, according to their seniority, respectively try the election petitions standing for trial under this Act, unless they otherwise agree among themselves, in which case the trial of each election petition shall be taken in manner provided by such agreement. R. S. O. 1887, c. 10, s. 35.

Manner in which trials shall be taken by the Judges.

36. Where it appears to the Judges on the *rota*, after due consideration of the list of petitions under this Act for the time being at issue, that the trial of election petitions will be inconveniently delayed unless an additional Judge or additional Judges be appointed to assist the Judges on the *rota*, the Court of Appeal, and the Queen's Bench, Chancery and Common Pleas Divisions of the High Court in the order named, shall, on the requisition of the Judges on the *rota*, and to the number of the additional Judges required, select, in manner hereinbefore provided, one of the Judges of such Court or Division to try election petitions for the ensuing year; and any Judge so selected shall, during that year, be deemed to be on the *rota* for the trial of election petitions. R. S. O. 1887, c. 10, s. 36.

When the number of Judges on the *rota* may be increased.

37. Allegations of corrupt practices against a candidate or his agents shall be tried by two of the Judges on the *rota* sitting together (hereinafter referred to as the Judges); and no candidate shall be unseated for corrupt practice, nor shall any person be declared guilty of a corrupt practice, or disqualified except upon the decision of the two Judges jointly, or of the Court of Appeal. R. S. O. 1887, c. 10, s. 37.

Allegations of corrupt practices to be tried by two Judges.

38. Every petition shall, except as aforesaid, and except where the petition raises a question of law for the determination of the Court, as herein mentioned, be tried by one of the Judges on the *rota* (hereinafter referred to as the Judge), sitting in open Court, without a jury. R. S. O. 1887, c. 10, s. 38.

Judge to try petitions without a jury.

Place of trial.

39. The trial of an election petition shall take place in the Electoral District, the election or return for which is in question, unless it appears to the Court that special circumstances exist which render it desirable that the petition should be tried elsewhere, in which case it shall be lawful for the Court to appoint such other place for the trial as appears most convenient. R. S. O. 1887, c. 10, s. 39.

Trial at Toronto or other county town by consent.

40. Where the parties file a consent signed by them or by counsel on their behalf that the trial of the petition may take place in Toronto or some county town specified in the consent, the judges on the *rota*, without further evidence of convenience, may fix the place of trial at the place so specified, though such place may not be in the electoral district the election or return for which is in question. 58 V. c. 4, s. 4.

Notice of trial.

41. Notice of the time and place at which an election petition will be tried shall be given in the prescribed manner, not less than fourteen days before the day on which the trial is to take place. R. S. O. 1887, c. 10, s. 40.

Reception and attendance on the Judge.

42. The Judge or Judges shall be received and attended at the place where he or they is or are about to try an election petition under this Act, in the same manner, so far as circumstances will admit, as a Judge of the High Court is received and attended at a sitting of the High Court for the trial of actions in a county town, and the expenses of such attendance shall be deemed to be part of the expenses of providing a court. R. S. O. 1887, c. 10, s. 41.

Powers of the Judge.

43. On the trial of an election petition under this Act, the Judge or Judges shall, subject to the provisions of this Act, have the same powers, jurisdiction and authority as Judges of the High Court, and the Court held by him or them shall be a Court of Record. R. S. O. 1887, c. 10, s. 42.

Judge may adjourn the trial.

44. The Judge or Judges at the trial may adjourn the same from time to time, and from any one place to any other place within the district, as to him or them may seem expedient. R. S. O. 1887, c. 10, s. 43.

Certain circumstances not to stop trial.

45. The trial of an election petition under this Act shall be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the Crown, or his resignation of the seat, and notwithstanding the prorogation of the Legislative Assembly. R. S. O. 1887, c. 10, s. 44.

Application to change petitioner when delay in fixing day for trial.

46. Where three months elapse after the presentation of a petition, without the day for the trial having been fixed, any elector may, on application, be substituted for the petitioner on such terms as may be just. R. S. O. 1887, c. 10, s. 45.

47.—(1) Subject to the provisions of the next succeeding section, the trial of every election petition shall be commenced within six months from the time when the petition was presented, and so far as is practicable consistently with the interests of justice in respect of such trial, shall be continued *de die in diem* on every lawful day until its conclusion; unless on application supported by affidavit it is shewn that the requirements of justice render it necessary that a postponement of the case should take place, and an application to postpone the case or extend the time for fixing the day of trial may be made to a judge of the Court of Appeal at any time before the expiration of the said six months, and the judge may thereupon, in his discretion, postpone the case or extend the time for fixing the day of trial to a day before or after the expiration of the said six months. R. S. O. 1887, c. 10, s. 46 (1); 58 V. c. 4, s. 2.

Trial, when to be commenced and proceeded with.

Postponement of trial.

(2) In case the *rota* of Judges for the year shall expire before the conclusion of the trial, or of all the proceedings in relation or incidental to the petition, the authority of the said Judges shall continue for the purpose of the said trial and proceedings. R. S. O. 1887, c. 10, s. 46 (2).

Authority of *rota* Judges to continue.

48. In case the member elect is entitled to take his seat, the trial of the election petition shall not, without his consent, be held during a Session of the Legislative Assembly, or within fifteen days after the close of a Session; and in the computation of any delay allowed for any step or proceeding in respect of the trial, or for the commencement of the trial under the next preceding section, the time occupied by the Session shall not be reckoned. R. S. O. 1887, c. 10, s. 47.

When trial shall not be held, during a session or fifteen days thereafter.

Evidence.

49. Unless the Judges trying a petition otherwise direct, any charge of a corrupt practice may be gone into, and evidence in relation thereto received, before any proof has been given of agency on the part of any candidate in respect of such corrupt practice. R. S. O. 1887, c. 10, s. 48.

When evidence of corrupt practice may be received.

50. On the trial of a petition under this Act, complaining of an undue return, and claiming the seat for some person, the respondent may give evidence to prove that the election of such person was undue, in the same manner as if he had presented a petition complaining of such election. R. S. O. 1887, c. 10, s. 49.

Cross evidence of undue return.

Witnesses.

51. Witnesses shall be subpoenaed and sworn in the same manner, as nearly as circumstances will admit, as on the trial of an action in the High Court. R. S. O. 1887, c. 10, s. 50.

Witness, how subpoenaed and sworn.

Judge may order attendance of witnesses.

52. On the trial of an election petition under this Act the Judge or Judges may, by order under his or their hand or hands, compel the attendance of any person as a witness who appears to him or them to have been concerned in the election to which the petition refers, and any person refusing to obey such order shall be guilty of contempt of Court. The Judge or Judges may examine any witness so compelled to attend or any person in Court, although such witness is not called and examined by a party to the petition. After the examination of a witness as aforesaid by the Judge or Judges, the witness may be cross-examined by or on behalf of the petitioner and respondent, or either of them. R. S. O. 1887, c. 10, s. 51.

Persons not excused from answering on the ground of privilege.

53. No person shall be excused from answering any question put to him in a trial under this Act, touching or concerning any election, or the conduct of any person thereat, or in relation thereto, on the ground of privilege, or on the ground that the answer to such question will tend to criminate such person; but no answer given by a person claiming to be excused on the ground of privilege, or on the ground that the answer will tend to criminate himself, shall be used in any proceeding against such person under any Act of the Legislature of Ontario, if the Judge or Judges give to the witness a certificate that he claimed the right to be excused on either of the grounds aforesaid, and that he made full and true answers to the satisfaction of the Judge or Judges. R. S. O. 1887, c. 10, s. 52.

Expenses of witnesses.

54. The reasonable expenses incurred by a person in appearing to give evidence at the trial of an election petition under this Act, according to the scale allowed to witnesses on the trial of civil actions at the Assizes, may be allowed to such person by a certificate, under the hand of a Judge or of the Registrar of the Court, and such expenses, if the witness was called and examined by a Judge, shall be deemed to be part of the expenses of providing a court, and in other cases shall be deemed to be costs of the party calling the witness. R. S. O. 1887, c. 10, s. 53.

JUDGES' REPORTS AND CERTIFICATES.

Judge to determine the issue and certify his determination to the Speaker.

55. The Judge or Judges trying the petition shall determine whether the member whose election or return is complained of, or any and what other person was duly returned or elected, or whether the election was void, and shall certify, in writing, such determination to the Speaker, or if there is no Speaker to the Clerk of the House, and upon such certificate being given, such determination shall be final to all intents and purposes, subject only to the appeal hereinafter mentioned. R. S. O. 1887, c. 10, s. 54.

56—(1) In case of disagreement between the Judges before whom a case is tried, they shall certify such disagreement, and either party may thereupon bring the matter before the Court of Appeal, and that Court shall, in disposing thereof, have the same jurisdiction in all respects as on an appeal from a decision of such Judges; and therein may determine all questions of law or fact which the Judges disagreeing might or should have determined, and in the same manner as in the opinion of the Court of Appeal the disagreeing Judges should have done; and in such case the Registrar of the Court of Appeal shall thereupon certify to the Speaker, or if there is no Speaker, to the Clerk of the House, the judgment and decision of the Court upon the case, in the same manner, and to the same effect, as according to the judgment and decision of the Court of Appeal, the Trial Judges should have done.

Disagreement
between the
trial Judges.

Application to
court of
appeal.

(2) Instead of determining all questions of law or fact, the Court of Appeal may refer the case back to the Trial Judges, with such declarations and directions as the Court of Appeal may think fit; and the Trial Judges shall thereupon dispose of the case (including costs) in accordance with, and so as to give effect to such declarations and directions, and the Trial Judges shall certify to the Speaker or Clerk as the case may require. R. S. O. 1887, c. 10, s. 55.

57—(1) In case of a trial before two Judges, every certificate and every report sent to the Speaker shall be under the hands of both Judges.

Report to be
made by both
Judges.

(2) If the Judges differ as to whether the member whose return or election is complained of was duly returned or elected, they shall certify that difference, and the member shall, subject to appeal, be deemed to be duly elected or returned.

(3) If the Judges determine that a member was not duly elected or returned, but differ as to the rest of the determination, they shall certify that difference, and the election shall, subject to appeal, be deemed to be void.

(4) If the Judges differ as to the subject of a report to the Speaker, they shall certify that difference, and make no report on the subject on which they so differ.

(5) If the Judges differ as to any matter on which under sections 172 and 174 of *The Ontario Election Act*, or otherwise, any disqualification, disability or liability to a penalty depends, they shall certify such difference, and the candidate shall not be disqualified or subject to a disability or penalty.

Rev. Stat.
c. 9.

(6) There shall be no appeal from a decision of the Judges finding that a candidate or other person has not been guilty of corrupt practices, or finding in favour of a candidate any of the matters of defence mentioned in section 174 of *The Ontario Election Act*. R. S. O. 1887, c. 10, s. 56.

No appeal in
certain cases.

Rev. Stat.
c. 9.

Proceedings
on appeal in
case of dis-
agreement be-
tween Judges

58. In case of a disagreement between the Judges, as mentioned in section 56 of this Act, and any party is entitled to the opinion of the Court of Appeal with respect to the matter of the disagreement, such party, if he desires such opinion, shall be required to make within eight days from the day on which the said disagreement was announced or certified, the same deposit by way of security for costs, and the proceedings in the matter shall be the same, as nearly as may be, as in the case of an appeal from a decision of the Judges. R. S. O. 1887, c. 10, s. 57.

Report of
Judges where
charge is made
of corrupt
practices.

59. Where a charge is made in an election petition of a corrupt practice having been committed at the election to which the petition refers, the Judges shall, in addition to the certificate, and at the same time, report in writing to the Speaker as follows:—

(a) Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any and of which candidate at the election, and the nature of such corrupt practice;

(b) The names of any persons who have been proved, at the trial, to have been guilty of any corrupt practice;

(c) Whether corrupt practices have, or whether there is reason to believe that corrupt practices have, extensively prevailed at the election to which the petition relates. R. S. O. 1887, c. 10, s. 58.

Special report

60. The Judge or Judges may in his or their report make a special report to the Speaker as to any matters arising in the course of the trial, an account of which, in his or their judgment, ought to be submitted to the Legislative Assembly. R. S. O. 1887, c. 10, s. 59.

Speaker to
communicate
report to the
Legislative
Assembly.

Proceedings
thereon.

61. The Speaker shall, at the earliest practicable moment after he receives the certificate, and report or reports (if any), of the Court, Judge or Judges, communicate the same to the Legislative Assembly, and the Legislative Assembly shall forthwith thereafter order the same to be entered on its Journals, and give the necessary directions for confirming or altering the return, or for issuing a writ for a new election, or for carrying the determination into execution as circumstances may require. R. S. O. 1887, c. 10, s. 60.

Order of Le-
gislative As-
sembly upon
special report.

62. Where the Judge or Judges make a special report, the Legislative Assembly may make such order in respect of such special report as they think proper. R. S. O. 1887, c. 10, s. 61.

If election
held void
member
returned not
to sit pending
appeal.

63. In case the Judge or Judges trying an election shall decide that the election or return was void, the member returned shall not be entitled to take his seat or vote in the Legislative Assembly pending an appeal from the decision. R. S. O. 1887, c. 10, s. 62.

64. A writ for a new election shall not be issued until after the expiration of eight days from the decision of the Judge or Judges, declaring the election or return to be void ; and, if an appeal is in the meantime brought from the part of the decision which declares the election or return to be void, the writ shall not issue, pending the appeal. 54 V. c. 6, s. 2.

Time for issue of writ for new election.

SPECIAL CASE.

65. When upon the application of a party to a petition, duly made to the Court, it appears to the Court that the case raised by the petition can be conveniently stated as a special case, the Court may direct the same to be stated accordingly, and such special case shall be, as far as may be, heard before the Court, and the decision of the Court shall be final, and the Court shall certify to the Speaker its determination in reference to such special case. R. S. O. 1887, c. 10, s. 64.

When Court may order a special case.

APPEALS.

66. Any party to an election petition under this Act who is dissatisfied with the decision of the Judge or Judges on any question of law or of fact, and desires to appeal against the same, may within eight days from the day on which the decision was given deposit with the Registrar of the Court the sum of \$100 by way of security for costs ; and thereupon the Registrar shall set the matter of the petition down for hearing before the Court at an early day to be appointed by the Court, or a Judge thereof. R. S. O. 1887, c. 10, s. 65.

Appeal : security for costs ;

Setting down for hearing ;

67. The party so appealing shall thereupon within three days after the security for costs has been given or such further time as the Court or a Judge thereof may upon application allow, give to the other parties affected by the appeal, or the respective solicitors or agents by whom such parties were represented on the trial of the petition, notice in writing that the matter of the petition has been so set down to be heard in appeal as aforesaid ; and in and by the same notice the party so appealing may, if he desires, limit the subject of the appeal to any special and defined question or questions. R. S. O. 1887, c. 10, s. 66.

Notice of setting down ;

68. The appeal shall thereupon be heard and determined by the Court, and such judgment shall be pronounced, both upon questions of law and of fact, as in the opinion of the Court should have been delivered by the Judge or Judges whose decision is appealed against. R. S. O. 1887, c. 10, s. 67.

Hearing ;
Judgment.

69. Upon appeals, in cases on or involving questions of fact, the Court shall review the decision upon questions of fact as well as of law, and shall draw such inference from the facts or evidence as the Judge or Judges who tried the case should have drawn. R. S. O. 1887, c. 10, s. 68.

Court to review decision upon facts as well as law.

Powers of
Court as to
amendments
and evidence.

70. The Court shall have all the powers and duties as to amendment and otherwise of the Judge or Judges from whom the appeal is had, together with full discretionary power to receive further evidence upon questions of fact, such evidence to be either by oral examination in Court, by affidavit or by deposition taken before any Judge or other person whom the Court may name. R. S. O. 1887, c. 10, s. 69.

Judges may
report upon
demeanour of
witnesses.

71. Where a decision given, by the Judge or Judges depends in whole or in part upon the credit given by him or them to particular witnesses, and the decision is appealed against, the Judge or Judges may make a written report as to the demeanour of the principal witnesses and their mode of giving their evidence, together with the reasons of such Judge or Judges for giving credit to the particular witnesses; and, with or without such a report, the Court, in view of the whole case as it then appears, may reverse or confirm the decision appealed against; or the Court may require any witnesses to be re-examined, and further evidence to be given, orally, before the Court or otherwise, upon any question of fact; and after such re-examination and further evidence, the Court shall pronounce the proper judgment in the case. R. S. O. 1887, c. 10, s. 70.

Re-examina-
tion of
witnesses.

Costs.

72. The Court may make such order as to the return of the said deposit and as to the costs of the said appeal as the Court may think just. R. S. O. 1887, c. 10, s. 71.

Registrar
to certify
judgment
to the Speaker.

73. The Registrar of the Court shall thereupon certify to the Speaker, or, if there is no Speaker, to the Clerk of the House the judgment and decision of the Court upon the several questions and matters of fact, as well as of law, upon which the Judge or Judges whose decision is appealed against might otherwise have determined or certified in the same manner as the Judge or Judges whose decision is appealed against would otherwise have done; and the judgment or decision shall be final to all intents and purposes. R. S. O. 1887, c. 10, s. 72.

New trial

74. Instead of certifying as aforesaid, the Court, upon such conditions as to costs and otherwise as the Court thinks fit, may grant a new trial for the purpose of taking evidence, or additional evidence, and may remit the case back to the Judge or Judges who tried the same, or to some other Judge or Judges upon the *rota*; and, subject to the directions given by the Court of Appeal, the case shall be thereafter proceeded with as if there had been no appeal. R. S. O. 1887, c. 10, s. 73.

Decisions of
Court of
Appeal to be
final.

Rev. Stat.
c. 9.

75. The decision of the Court of Appeal on any matter or question under this Act or *The Ontario Election Act* shall be final, and shall not be subject to any appeal whatsoever. 58 V. c. 4, s. 16.

SCRUTINY.

76. Where, in consequence of an election petition being presented, it becomes necessary to enter into a scrutiny of the votes polled at the election brought in question by the petition, the Judge may make provision for holding in every local municipality in the Electoral District, the election for which is questioned, a scrutiny of the votes polled in such municipality, in case of there being any votes therein which are objected to; and for this purpose may by order appoint a day and place within the municipality, or each of the municipalities respectively, as the case may require, for entering into the scrutiny. Such scrutiny may be before, on, or after the day appointed for the trial of the petition. R. S. O. 1887, c. 10, s. 74.

Scrutiny of votes may be held in each Municipality

77. Notice of the time and place for entering into the scrutiny shall be given not less than fourteen days before the day appointed for entering into the same. R. S. O. 1887, c. 10, s. 75.

Notice of time and place of scrutiny.

78. The scrutiny may be before the Judge, or the Judge may appoint his Registrar, or a Barrister competent for the purpose, to act in his stead. R. S. O. 1887, c. 10, s. 76.

Scrutiny before the Judge, or his delegate.

79. Where the scrutiny is entered into before the Judge in person, the provisions of law as to the jurisdiction of the Judge upon the trial of an election petition in the ordinary manner, shall apply, as nearly as may be, to the proceedings upon the scrutiny, and the Judge shall possess the like powers and authority, as to all matters arising upon the scrutiny, as are possessed by him upon a trial in the ordinary manner. R. S. O. 1887, c. 10, s. 77.

Jurisdiction and powers of the Judge when the scrutiny is before him in person.

80. Where the scrutiny is before a Registrar or Barrister, the Registrar or Barrister shall, except as hereinafter provided, have the same powers and authority for the time being in all matters connected with the scrutiny and for conducting the same, as the Judge himself would have if personally present and acting. R. S. O. 1887, c. 10, s. 78.

Powers of Judge's delegate on scrutiny before him.

81. It shall be the duty of the Registrar or Barrister acting under an appointment made, as aforesaid, to take down in writing the evidence given before him upon the scrutiny. R. S. O. 1887, c. 10, s. 79.

Delegate of Judge to take evidence in writing.

82. At or before the conclusion of the scrutiny in each Municipality, the Registrar, or Barrister so acting as aforesaid, shall either decide the questions of law and fact raised before him, or shall reserve the same, or any of them, for the decision of the Judge at the trial; and shall make a note in writing of every such decision or reservation, for the information of the Judge; and shall publicly announce such decision or reservation for the information of the public and the parties interested. R. S. O. 1887, c. 10, s. 80.

Delegate may decide or reserve questions of law or fact.

Appeal from
decision of
delegate.

83. If any party is dissatisfied with any decision of the Registrar, or Barrister so acting as aforesaid, he may object thereto before the Judge at the trial to be had as aforesaid: provided, that within eight days from the conclusion of the scrutiny he gives notice in the manner hereinafter mentioned to the opposite party of his intention to so object, and the Judge may, in his discretion, refuse at the trial before him to consider any points not raised before the Registrar, or Barrister so acting as aforesaid, for his decision; and in case the Judge does consider the same, and allows the appeal on a ground not distinctly taken before the Registrar, or Barrister so acting as aforesaid, the Judge may order the appellant, though successful, to pay the costs of and incidental to the appeal. R. S. O. 1887, c. 10, s. 81.

Notice of ap-
peal, time for
and service.

84. The party intending to object shall within eight days from the conclusion of the scrutiny, deliver in person, or by his solicitor or agent, to the Registrar, a written notice of his intention to object; and he shall also in person, or by his solicitor or agent, serve a like notice upon the opposite party, his solicitor or agent, within the said eight days. R. S. O. 1887, c. 10, s. 82.

Notice of ap-
peal, form of.

85. The notice shall mention the grounds of objection, and may be in the form of Schedule B to this Act or to the like effect. R. S. O. 1887, c. 10, s. 83.

WITHDRAWAL AND ABATEMENT OF ELECTION PETITIONS.

Withdrawal
of petitions.

86. An election petition under this Act shall not be withdrawn without the leave of the Court or a Judge upon special application, to be made in and at the prescribed manner, time and place. R. S. O. 1887, c. 10, s. 84.

Notice of
withdrawal.

87. No such application shall be made until the prescribed notice has been given in the Electoral District to which the petition relates, of the intention of the petitioner to make an application for the withdrawal of his petition. R. S. O. 1887, c. 10, s. 85.

Substitution
of new peti-
tioner.

88.—(1) On the hearing of the application for withdrawal, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or a Judge to be substituted as a petitioner for the petitioner so desirous of withdrawing the petition.

Order as to
security where
withdrawal is
induced by
corrupt bar-
gain.

(2) The Court or Judge may substitute as a petitioner any such applicant as aforesaid; and may further, if the proposed withdrawal is, in the opinion of the Court or Judge, induced by any corrupt bargain or consideration, by order direct that the security given on behalf of the original petitioner shall remain as security for any costs that may be incurred by the

substituted petitioner, and that to the extent of the sum named in the security the original petitioner shall be liable to pay the costs of the substituted petitioner. R. S. O. 1887, c. 10, s. 86.

89. If no such order is made with respect to the security given on behalf of the original petitioner, security to the same amount as would be required in the case of a new petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner before he proceeds with his petition, and within the prescribed time after the order of substitution. R. S. O. 1887, c. 10, s. 87.

Security to be given by substituted petitioner.

90. Subject as aforesaid, a substituted petitioner shall stand in the same position as nearly as may be, and be subject to the same liabilities as the original petitioner. R. S. O. 1887, c. 10, s. 88.

Liabilities of substituted petitioner.

91. If a petition is withdrawn, the petitioner shall be liable to pay the costs of the respondent, unless the Court otherwise orders. R. S. O. 1887, c. 10, s. 89.

Costs.

92. Where there are more petitioners than one, no application to withdraw a petition shall be made, except with the consent of all the petitioners. R. S. O. 1887, c. 10, s. 90.

All petitioners must join in withdrawal.

93. In every case of the withdrawal of an election petition under this Act, the Court or Judge shall report to the Speaker whether in its or his opinion the withdrawal of the petition was the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition, and if so, the circumstances attending the withdrawal. R. S. O. 1887, c. 10, s. 91.

Court to report whether withdrawal was the result of a corrupt arrangement, etc.

94. An election petition under this Act shall be abated by the death of a sole petitioner, or of the survivor of several petitioners. R. S. O. 1887, c. 10, s. 92.

Abatement of petition by death.

95. The abatement of a petition shall not affect the liability of the petitioner to the payment of costs previously incurred. R. S. O. 1887, c. 10, s. 93.

Costs.

96. On the abatement of a petition the prescribed notice of the abatement having taken place shall be given in the Electoral District to which the petition relates; and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates may apply to the Court or a Judge, in and at the prescribed manner, time and place, to be substituted as a petitioner. R. S. O. 1887, c. 10, s. 94.

Notice of abatement to be given.

Substitution
of new peti-
tioner on
abatement.

97. The Court or Judge may if it or he thinks fit, substitute as a petitioner any such applicant who is desirous of being substituted, and on whose behalf security to the same amount is given as is required in the case of a new petition. R. S. O., 1887, c. 10, s. 95.

Substitution of
new petitioner
where petiti-
on-er not
qualified.

98. In case a petitioner in an election petition shall not be qualified to be a petitioner, the petition shall not, on that account, be dismissed, if within such time as the Court or Judge shall allow for that purpose another petitioner is substituted which substitution may take place on such terms and conditions as to the Court or Judge may seem meet. R. S. O. 1887, c. 10, s. 96.

Substitution
of new
respondent in
certain cases.

99. If before or during the trial of an election petition under this Act, any of the following events happen in the case of the respondent, that is to say :

(a) If he dies ;

(b) If the Legislative Assembly has resolved that his seat is vacant ;

(c) If he gives in and at the prescribed manner and time, notice to the Court or Judge that he does not intend to oppose, or further to oppose the petition,

notice of such event having taken place shall be given in the Electoral District to which the petition relates, and within the prescribed time after the notice is given, any person who might have been a petitioner in respect of the election to which the petition relates, may apply to the Court or Judge to be admitted as a respondent to oppose the petition, or so much thereof as may remain undisposed of, and such person may on such application be admitted accordingly, either with the respondent, if there be a respondent, or in place of the respondent ; and any number of persons, not exceeding three, may be so admitted ; and if any of such events happens during the trial, the Judge or Judges shall adjourn the trial in order that notice, as herein provided, that such event has happened, may be given. R. S. O. 1887, c. 10, s. 97.

Respondent
not opposing
petition not to
appear as a
party or sit in
the Legisla-
tive Assembly.

100. A respondent who has given the prescribed notice that he does not intend to oppose or further oppose the petition, shall not be allowed to appear or act as a party against the petition in any proceedings thereon, and shall not sit or vote in the Legislative Assembly until the Legislative Assembly has been informed of the report on the petition ; and the Court or Judge shall, in all cases in which such notice has been given in the prescribed time and manner, report the same to the Speaker R. S. O. 1887, c. 10, s. 98.

Cases of
double return,
where the re-
spondent de-
clines to
oppose.

101. Where an election petition under this Act complains of a double return, and the respondent has given notice in the prescribed way that it is not his intention to oppose the petition, and no party has been admitted, in pursuance of this Act, to

oppose the petition, then the petitioner, if there be no petition complaining of the other member returned on such double return, may withdraw his petition by notice addressed to the prescribed officer; and upon the receipt of the notice, the prescribed officer shall report the fact of the withdrawal of the petition to the Speaker; and the Legislative Assembly shall thereupon give such necessary directions for amending the said double return, as the case may require. R. S. O. 1887, c. 10, s. 99.

COSTS.

102. All costs, charges and expenses of and incidental to the presentation of a petition under this Act, and to the proceedings consequent thereon, with the exception of such costs, charges and expenses as are by this Act otherwise provided for, shall be defrayed by the parties to the petition in such manner and in such proportions as the Court or Judge may determine, regard being had to the disallowance of any costs, charges or expenses which may, in the opinion of the Court or Judge have been caused by vexatious conduct, unfounded allegations, or unfounded objections on the part either of the petitioner or the respondent, and regard being had to the discouragement of needless expense by throwing the burden of defraying the same on the parties by whom it has been caused, whether such parties are or are not on the whole successful. R. S. O. 1887, c. 10, s. 100.

103.—(1) If a petition is filed before the petitioner has notice of the filing of a disclaimer or if no application is made to the Judge for leave to file such petition under section 23 of *The Revised Statute respecting the Legislative Assembly*, or for leave to proceed upon a petition, or if such application is dismissed the member shall pay all costs of the petitioner up to the time such petitioner receives notice of the disclaimer, and the costs of the application, and of any application under the said section shall be in the discretion of the judge.

(2) The said costs shall be taxed in the same manner as other costs are taxed under this Act, and may be recovered in the same way. 58 V. c. 4, s. 12.

104.—(1) In case, on the trial of an election petition, it is proved that any corrupt practice has been committed by an agent of a candidate, without the knowledge or consent of the candidate, if costs are awarded to the petitioner or other party alleging the corrupt practice, the agent may be condemned to pay such costs.

(2) In such case the Court or Judges shall order that such agent be summoned to appear at a time fixed in the summons in order that it may be determined whether he should be condemned to pay such costs.

If agent does not appear.

(3) If at the time so fixed the agent does not appear, he shall be condemned on the evidence already adduced to pay the whole or a due proportion of the costs awarded to the petitioner or other party aforesaid.

If agent appears.

(4) If the agent appears, the Court or Judges, after hearing the parties and such evidence as is adduced, shall give such judgment as seems fitting.

Process to recover costs against agent.

(5) The party to receive the costs shall have process to recover such costs against the agent in like manner as he might have such process against the principal; and no process shall issue against the principal to recover such costs, nor shall the sum be paid out of any money deposited as security, until after the return of process against the agent. R. S. O. 1887, c. 10, s. 101.

Costs of oral examinations, etc.

105. Except where otherwise provided, the costs of any oral examination or cross-examination, or of the production of any documents, in pursuance of this Act, shall, subject to the discretion of the Court or Judge, be deemed costs in the cause. R. S. O. 1887, c. 10, s. 102.

Taxation and recovery of costs.

106.—(1) Costs may be taxed in the prescribed manner, but according to the same principles as costs are taxed between party and party in the High Court, and such costs may be recovered in the same manner as the costs of an action, or in such other manner as may be prescribed.

(2) No greater counsel fee or fees shall be taxed as between party and party in respect of or in connection with the trial than \$50, and when the trial shall continue beyond one day, a sum not exceeding \$40 for each additional day the trial shall continue, whether one or more counsel shall be engaged at the trial.

(3) Except as to such witness fees and other actual disbursements, in respect of evidence taxable in ordinary actions between party and party, as may be allowed by the judgment or order of the Court allowing or apportioning costs, no greater sum (including counsel fee) than \$300 shall be taxed or taxable against either party as costs in the cause. R. S. O. 1887, c. 10, s. 103.

Execution may issue to enforce Judge's order for costs.

107. It shall not be necessary, in any proceedings upon an election petition, to make a Judge's order for the payment of costs a rule of the Court of Appeal, but writs of execution may be issued from the said Court, in pursuance of the said order, in the same manner, and with the same force and effect as if the same had been issued in pursuance of a rule of Court. R. S. O. 1887, c. 10, s. 104.

Recovery of costs against petitioner.

108. In the event of costs being awarded in favour of a party against any petitioner, such party shall (subject to the provisions of section 104), after the expiration of thirty days,

upon the production of a certificate of taxation from the Registrar of the Court of Appeal, be entitled to receive out of the deposit the amount taxed to him as aforesaid, if the aggregate of the costs taxed against or due the said petitioner (certificates whereof are within the said period of thirty days filed with the said Registrar) does not exceed the deposit; or if the total amount of the said certificates so filed as aforesaid exceeds the deposit, then his proportion thereof; and in the event last aforesaid such party shall be entitled forthwith to issue execution, according to the practice in ordinary cases, for the residue of the costs so taxed to him as aforesaid. R. S. O. 1887, c. 10, s. 105.

109. The costs of a petition or trial shall not be awarded against the candidate where he is not, by the judgment of the court, unseated; but this section shall not apply to cross petitions. R. S. O. 1887, c. 10, s. 106.

Costs not to be awarded against candidate who is not unseated.

110. Subsections 2 and 3 of section 106 of this Act shall not apply to any case where a candidate incurs the penalties provided by section 173 of *The Ontario Election Act* for corrupt practices committed by himself or with his actual knowledge or consent. R. S. O. 1887, c. 10, s. 107.

When limitation as to costs does not apply.
Rev. Stat. c. 9.

111. No costs beyond those taxable between party and party shall, in the absence of a special contract, be taxable between solicitor and client. R. S. O. 1887, c. 10, s. 108.

Provisions as to costs not specially provided for.

[For provisions as to candidate disclaiming, see Cap. 12, secs. 19-24.]

RULES OF COURT.

112.—(1) The Court of Appeal, or a majority of its Judges of whom the Chief Justice shall be one, may from time to time make, and may from time to time revoke and alter, General Rules and Orders for the effectual execution of this Act, and of the intention and object thereof, and the regulation of the practice, procedure and costs of election petitions, and the trial thereof, and the certifying and reporting thereon.

Court of Appeal may make rules of Court.

(2) Any General Rules and Orders made as aforesaid, and not inconsistent with this Act, shall be deemed to be within the powers conferred by this Act, and shall, while unrevoked, be of the same force as if they were enacted in the body of this Act.

(3) Any General Rules and Orders made in pursuance of this section shall be laid before the Legislative Assembly within three weeks after they are made, if the Legislative Assembly is then sitting, and if the Legislative Assembly is not then sitting, within three weeks after the beginning of the then next Session of the Legislative Assembly. R. S. O. 1887, c. 10, s. 109.

Rules to be laid before the Legislature.

Present rules and practice in cases not provided for.

113. The Rules of Court heretofore in force shall remain in force until abrogated or altered by Rules made in pursuance of this Act; and so far as the Rules from time to time in force do not extend, the principles, practice and rules on which election petitions, touching the election of members to the House of Commons of England, were on the fifteenth day of February, 1871, dealt with, shall, where not inconsistent with this Act, be observed. R. S. O. 1887, c. 10, s. 110.

MISCELLANEOUS.

Power to punish for contempt, and enforce rules.

114. In any case arising under this Act, any Judge for the time being on the *rota* for the trial of election petitions, or any Judge of the Court of Appeal, shall, for the purpose of enforcing obedience to any rule, or for punishing any contempt whatever, have the same power of granting a writ of attachment, to be issued from the Court of Appeal in vacation, as well as during the sittings of the said Court, as the High Court has, to enforce obedience to any rule or for punishing any contempt whatever. R. S. O. 1887, c. 10, s. 111.

Sundays and holidays to be included in reckoning time.

115. Sunday and any day set apart by any Act of lawful authority for a public holiday, fast or thanksgiving, shall be included in reckoning any period of time under this Act, but where anything is required by any section of this Act to be done on a day or date which falls on any of those days, or where the last day for doing anything or for taking any proceeding under this Act, falls on any of such days, such thing may be done on the next juridical day. 58 V. c. 4, s. 20.

Who may practise as agent, solicitor or counsel.

116. Any person who, according to the law for the time being, is entitled to practise as a solicitor in Ontario, may practise as an agent or solicitor, and any person who, by the law for the time being, is entitled to practise as a barrister-at-law in Ontario, may practise as counsel, in cases of election petitions and all matters relating to elections before the Court or a Judge. R. S. O. 1887, c. 10, s. 113.

Travelling and other expenses of the Judge and Sheriff.

117. The travelling and other expenses of the Judge, and all expenses properly incurred by the Sheriff in attending on the Judge and providing a Court, shall be defrayed out of moneys to be provided by the Legislative Assembly. R. S. O. 1887, c. 10, s. 114.

Prosecution of persons reported for corrupt practices.

118. Where an Election Court reports that any persons named in the report have been guilty of corrupt or illegal practices it shall be the duty of the County Attorney to prosecute such persons for the offences mentioned unless the Court shall otherwise direct. R. S. O. 1887, c. 10, s. 115.

SCHEDULE A.

(Referred to in Section 29.)

FORM OF AFFIDAVIT ON PRODUCTION OF BOOKS AND PAPERS.

In the Court of Appeal.

Election for _____, holden on the _____ day of _____, A.D.

Between { *A. B.*, Petitioner,
and
Y. Z., Respondent.

I, _____, of _____, make oath and say:—

1. That I have in my possession or power the documents relating to the matters in question set forth in the first and second parts of the first Schedule hereto annexed.

2. I object to produce the said documents set forth in the second part of the said first Schedule.

3. *(State upon what grounds objection is made, and verify the facts as far as may be.)*

4. I have had, but have not now, in my possession or power the documents relating to the matters in question set forth in the second Schedule hereto annexed.

5. The last mentioned documents were last in my possession or power on *(state when)*.

6. *(State what has become of the last mentioned documents, and in whose possession they now are.)*

7. According to the best of my knowledge, remembrance, information and belief, I have not now, and never had, in my own possession, custody or power, or in the possession, custody or power of my agents or solicitors, agent or solicitor, or in the possession, custody or power of any other person on my behalf, any deed, account, book of accounts, minutes, voucher, receipt, letter, memorandum, paper or writing, or any copy of or extract from any such document or other document whatever, relating to the matters in question, or any of them, or wherein any entry has been made relative to such matters, or any of them, other than and except the documents set forth in the first and second Schedules hereto annexed.

Sworn, &c.

R. S. O. 1887, c. 10, Sched. A.

SCHEDULE B.

(Referred to in Section 85.)

In the Court of Appeal.

Election for _____, holden on the _____ day of _____ A.D.

Between { *A. B.*, Petitioner,
 and
 Y. Z., Respondent.

Take notice, that the Petitioner *A. B.* (*or as the case may be*) intends to appeal to the Honourable _____, the Judge appointed to try the petition in this case, against the decision of _____ Esq., the Registrar of the said Judge (*or as the case may be*), as to the vote of *C. D.*, of the _____ of _____, who appears in the Petitioner's (*or as the case may be*) particulars as No. _____ in the _____ Schedule, on the following grounds :—

(State shortly ground or grounds of Appeal.)

Dated the _____ day of _____, A. D., 18 ____
To _____, _____
Registrar, _____
 A. B., Petitioner.

or to Y. Z., _____ *or E. F.*,
Respondent, Agent for Petitioner

or W. X.,
Agent for Respondent.

R. S. O. 1887, c. 10, Sched. B.

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ADMINISTRATION OF OATHS TO WIT-
NESSES, ss. 69, 70.

INDEMNITY TO MEMBERS, ss. 71-80.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Assembly to consist of ninety-four members.

Rev. Stat. c. 6.

1. The Legislative Assembly shall be composed of ninety-four members to represent the Electoral Districts mentioned in *The Act respecting the Representation of the People in the Legislative Assembly*. R. S. O. 1887, c. 11, s. 1; 57 V. c. 2.

Legislature not dissolved by demise of the Crown.

2.—(1) No Legislative Assembly summoned or called in and for this Province shall determine or be dissolved by the demise of the Crown, but the Assembly shall continue, and may meet, convene and sit, proceed and act, notwithstanding the demise of the Crown, in the same manner as if such demise had not happened.

Power to prorogue or dissolve not affected.

(2) Nothing in this section shall alter or abridge the power of the Crown to prorogue or dissolve the Assembly. R. S. O. 1887, c. 11, s. 2.

Duration of Legislative Assembly.

3. Every Legislative Assembly shall continue for four years from the fifty-fifth day after the date of the writs for the election, and no longer, subject to being sooner dissolved by the Lieutenant-Governor. R. S. O. 1887, c. 11, s. 3; See 55 V. c. 3, s. 25, in connection with 57 V. c. 6, s. 1.

Yearly Session of Legislature.

4. There shall be a Session of the Legislature once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in one Session and its first sitting in the next. R. S. O. 1887, c. 11, s. 4.

Prorogation of Legislature; formal proclamations unnecessary.

5. It shall not be necessary for the Lieutenant-Governor in proroguing the Legislature to name any day to which the same is prorogued; nor to issue a formal proclamation for a meeting of the Legislature when it is not intended that the Legislature shall meet for despatch of business. R. S. O. 1887, c. 11, s. 5.

DISQUALIFICATION AS MEMBERS.

No Senator or Privy Councillor who is a member of the House of Commons eligible.

6. No Senator, and no Privy Councillor of the Dominion of Canada who is a member of the House of Commons, shall be eligible as a member of the Legislative Assembly, nor shall he sit or vote in the same. R. S. O. 1887, c. 11, s. 6.

Members of the Legislative Assembly, not to be members of House of Commons.

7. If any person, being a member of the Legislative Assembly, sits or votes as a member of the House of Commons of Canada, his election to the Legislative Assembly shall thereby become void and his seat shall be vacated, and he shall become incapable of sitting or voting in the Legislative Assembly, and a writ shall issue for a new election in the manner provided for in sections 36 and 37 of this Act, and such person shall not

be eligible for re-election as a member of the Legislative Assembly so long as he continues to be a member of the House of Commons. R. S. O. 1887, c. 11, s. 7.

- 8.—(1) Except as hereinafter specially provided, no person
- (a) Accepting or holding any office, commission or employment either in the service of the Dominion of Canada, or in the service of the Government of Ontario, at the nomination of the Crown or of the Lieutenant-Governor, to which a salary, or any fee, allowance or emolument in lieu of a salary from the Crown or from the Province is attached, or
- (b) Accepting or holding any office, commission or employment of profit at the nomination of the Crown, or of the Government, or of any head of a Department in the Government of Ontario, whether such profit is or is not payable out of the public funds,

Persons holding office, etc., at the nomination of the Crown, etc., ineligible.

shall be eligible as a member of the Legislative Assembly, or shall sit and vote in the same during the time he holds such office, commission or employment.

(2) Nothing in this section shall render ineligible, or disqualify to sit or vote, any person who was on the second day of March, 1872, a member of the Legislative Assembly, and who was at the time of his election holding an office, commission or employment, which would, but for this subsection, disqualify him.

Exception.

(3) Nothing in this section shall render ineligible as aforesaid, any person being a member of the Executive Council, or holding any of the following offices, that is to say—Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, Minister of Agriculture, Commissioner of Public Works or Minister of Education, or shall disqualify him to sit or vote in the Legislative Assembly, provided he is elected while holding such office, and is not otherwise disqualified. R. S. O. 1887, c. 11, s. 8 (1-3); 58 V. c. 10, s. 1.

Exception as to persons holding certain offices.

(4) Nothing in this section shall render ineligible, as aforesaid, or disqualify to sit and vote in the Legislative Assembly, any officer of Her Majesty's Army or Navy, or any officer in the Militia or Militiaman (except officers on the Staff of the Militia receiving permanent salaries), or any Justice of the Peace, Coroner or Notary Public, or any person who, on the fifth day of March, 1880, held the office of Division Court Clerk, under the nomination or appointment of a Judge of a County Court, unless he is otherwise disqualified. R. S. O. 1887, c. 11, s. 8 (4).

Officers in the Army, Navy or Militia, etc.

9. No person whosoever, holding or enjoying, undertaking or executing, directly or indirectly, alone or with any other, by himself or by the interposition of a trustee or third party,

No public contractor eligible.

any contract or agreement with Her Majesty, or with any public officer or department, with respect to the public service of Ontario, or under which any public money of Ontario is to be paid for any service or work, matter or thing, shall be eligible as a member of the Legislative Assembly, nor shall he sit or vote in the same. R. S. O. 1887, c. 11, s. 9.

Trustees
for estates
of contractors
not to be dis-
qualified.

10.—(1) No person is ineligible, or shall be deemed to have been ineligible, to be a member of the Legislative Assembly, by reason of his being or having been interested as an executor, administrator or trustee only, having otherwise no beneficial interest, in a contract or agreement with Her Majesty, or with a public officer or department with respect to the public service of the Province, or under which public money of the Province is to be paid for any service, work, matter or thing.

Shareholders
in contracting
companies not
disqualified.

(2) Nor is any person ineligible nor shall any person be deemed to have been ineligible as aforesaid by reason of his being, or having been, a shareholder or stockholder in an incorporated company having any such contract or agreement as aforesaid; unless such contract or agreement is for the building of a public work for the Province, or such person is a shareholder or stockholder for a sum exceeding \$1,000 in a company having a contract or agreement as aforesaid for the supply of goods to any of the public institutions of the Province which are under the management of the Government, or of any department thereof, or for the supply of goods to the Queen's Printer for the Legislature or for any Department of the Government.

Exceptions.

Liability for
support of
inmates of cer-
tain institu-
tions not to
disqualify.

(3) Nor is any person ineligible nor shall any person be deemed to have been ineligible as aforesaid by reason of his being or having been a surety or contractor or liable for the payment of money for or on account of the maintenance or tuition of an inmate or pupil of the Institutes for the Deaf and Dumb or Blind, or a pupil at the Ontario Agricultural College and Experimental Farm, or at Upper Canada College, or the Toronto University, or University College, or other government institution; or by reason of his being or having been a postmaster elsewhere than in a city, town or incorporated village, or interested in a contract for carrying the mail between two or more post offices neither of which is a city, town or incorporated village, nor by reason of his being the surety of any such postmaster or contractor. 58 V. c. 4, s. 17. 60 V. c. 15, Sched. A, (62).

Certain post-
masters and
mail carriers.

Owners and
persons inter-
ested in
certain news-
papers not
disqualified.

(4) Nor is any person ineligible to be a member of the Legislative Assembly or disqualified to sit and vote therein by reason only of his being proprietor of or otherwise interested in a newspaper or other periodical publication in which from time to time official advertisements are inserted which appear in other newspapers or publications in the Province of Ontario, or which is subscribed for by the Government of Ontario or

any department thereof, or by any of the public institutions of the Province, although such advertisements or subscriptions are paid for at the usual rates out of public moneys of the Province of Ontario. 60 V. c. 4, s. 2.

11. No person shall be held to have been or to be disqualified from being elected a member of the Legislative Assembly of this Province by reason of his holding a license, permit or permission for cutting timber on any Crown Lands of the Province, or being interested in any such license, directly or indirectly, alone or with another, by himself or by the interposition of a trustee or third person, or by reason of there having been or being money due or payable to Her Majesty in respect of timber cut under any such license; but no such licensee-holder or person interested as aforesaid shall vote on any question affecting such license or in which he is interested by reason of such license. 57 V. c. 8, s. 1; 58 V. c. 4, s. 18.

Timber
licensee not
disqualified
from sitting in
Legislature.

12.—(1) A person shall not be incapable of being elected a member of the Legislative Assembly by reason of his being a surety for a Sheriff, Registrar, County Attorney, Clerk or Bailiff of a Division Court, or other public officer, or by reason of his being a surety or contractor for the payment of the maintenance of a patient at a public asylum for the insane, unless he is otherwise disqualified

Exception as
to sureties of
Sheriffs, etc.

(2) Any person who is elected a member of the Legislative Assembly, being at the time of his election a surety as aforesaid, shall, before he sits or votes in the Legislative Assembly, take and complete such action as may be requisite to relieve him from any thereafter accruing liability in respect of his suretyship, and no person who is liable as such surety in respect of any accruing matter shall sit or vote in the Legislative Assembly. R. S. O. 1887, c. 11, s. 10.

13. The provisions of the preceding section shall not be regarded as a legislative declaration that the persons in the said section described, or any of them, come within the disqualification of the said section. R. S. O. 1887, c. 11, s. 11.

Preceding
section not a
declaration of
disqualifica-
tion.

14. No disqualification, under sections 8 or 9 of this Act, on any ground arising before the election shall be held by any Court to affect or to have hitherto affected the seat of a member of the Legislative Assembly, or to disentitle or to have disentitled any person to sit or vote therein, until such disqualification has been duly declared and found by an Election Court; but this is not to be construed as affecting the cases provided for by section 12; nor as affecting the right of the Legislative Assembly to expel a member according to the practice of Parliament or otherwise. 58 V. c. 4, s. 19.

Disqualifica-
tion before
election not to
apply until
declared by
courts.

Exceptions as
to certain
cases.

Election of person disqualified to be void.

15. If any person hereby disqualified or declared ineligible or incapable of being elected a member of the Legislative Assembly, is nevertheless elected and returned as a member, his election and return shall be null and void. R. S. O. 1887, c. 11, s. 12.

If member disqualified by accepting office or contract, seat to be vacated.

16.—(1) If any member of the Legislative Assembly becomes a member of the Executive Council, or if by accepting any other office or becoming a party to any contract or agreement as in section 9 mentioned, he becomes disqualified by law to continue to sit or vote in the Legislative Assembly, his election shall thereby become void, and his seat shall be vacated, and a writ shall, in the manner provided by sections 36 and 37 of this Act, issue for a new election as if he were naturally dead; but he may be re-elected if he is not declared ineligible under this Act. R. S. O. 1887, c. 11, s. 13 (1).

May be re-elected.

Certain officers may resign one office and accept another without vacating seat.

(2) Nevertheless, whenever any person holding the office of Attorney-General, Secretary and Registrar of the Province, Treasurer of the Province, Commissioner of Crown Lands, Minister of Agriculture, Commissioner of Public Works or Minister of Education, and being at the same time a member of the Legislative Assembly, resigns his office, and within one month after his resignation accepts any other of the said offices, he shall not thereby vacate his seat in the Legislative Assembly, unless the Administration of which he was a member has resigned, and a new Administration occupies the said offices; and in case a member of the Executive Council holding any one of the said offices, is appointed to hold another office in addition to or in connection with such first mentioned office, he shall not thereby vacate his seat in the Legislative Assembly; and any increase or change of emolument arising from the holding of such two offices shall not cause any vacancy, or render a re-election necessary. R. S. O. 1887, c. 11, s. 13 (2); 58 V. c. 10, s. 1.

Acceptance of additional office, not to vacate seat.

No disqualified person shall sit or vote.

17.—(1) No person disqualified by this Act or by any other law, to be elected a member of the Legislative Assembly, shall sit or vote in the same while he remains under such disqualification; and if any person by this Act made ineligible as a member of, or declared incapable of sitting or voting in the Legislative Assembly, sits or votes therein while he is so ineligible or incapable, he shall thereby forfeit the sum of \$2,000 for every day on which he so sits or votes; and such sum may be recovered from him by any person who may sue for the same by action in any Court of competent civil jurisdiction in Ontario.

Penalty.

How recoverable.

Proceedings after recovery of judgment.

(2) In case an action, is brought, and judgment therein is recovered against the defendant, no proceedings shall be had in any other action, against the same person, for any such offence committed before the time of notice to him of the recovery of the judgment.

(3) While such action is pending, no other such action shall be brought against the same defendant.

While action pending no second action.

(4) The Court wherein any other action is brought, contrary to the intent and meaning of this Act, shall and may, upon the defendant's motion, stay the proceedings therein, if the first mentioned action be prosecuted without fraud, and with effect; but no action, shall be deemed an action within this section, unless so prosecuted. R. S. O. 1887, c. 11, s. 14.

Staying proceedings in other actions.

OATH AS TO ELECTION EXPENSES.

18. Before a member elect of the Legislative Assembly is permitted to take the oath as a member, he shall file with the Clerk of the House, an affidavit duly sworn before the Clerk, that (except in respect of his personal expenses) he has not made before, or during, or after the election, and will not make any payment, advance, loan or deposit for the purposes of the election, otherwise than through his agent or agents duly appointed by him under *The Ontario Election Act*; and the affidavit shall state the name or names of the agent, or agents, theretofore appointed, and shall further state that the deponent has not been guilty of any corrupt practice in respect of the said election, and may be in the form of Schedule A to this Act or to the like effect. R. S. O. 1887, c. 11, s. 15.

Member elect before taking oath as member to file affidavit as to election expenses, etc.

Rev. Stat. c. 9.

DISCLAIMER.

19. A member elected to the Legislative Assembly may disclaim his seat in the manner hereinafter provided, and the member so disclaiming shall be held to have thereby vacated the seat, and to have ceased to be a member of the said Assembly in respect of the seat so disclaimed. 58 V. c. 4, s. 6.

Disclaimer by member elect.

20. At any time after an election the member elect who desires to disclaim may transmit (postpaid and registered), through the post office, directed to "The Clerk of the Legislative Assembly, Toronto," or may cause to be delivered to such clerk, a disclaimer signed by such member to the effect following:

Mode of disclaiming.

"I, A. B., member elect to the Legislative Assembly of the Province of Ontario for the electoral division of _____, do hereby disclaim all my right or title to sit or vote as such member or in any manner to act as such member."

Form of disclaimer.

58 V. c. 4, s. 7.

21. Such disclaimer shall not affect the right of any person entitled to contest the election and claiming the seat for himself or some other person, and shall not affect the liability of the person disclaiming in respect of corrupt practices. In case of a petition claiming the seat for some other person, the judge or judges trying the election shall determine whether any

Effect of disclaimer on right and liabilities.

candidate other than the member who has disclaimed was duly elected ; and a candidate declared by the Judge or Judges duly elected shall be entitled to take his seat. 58 V. c. 4, s. 8.

Notice of disclaimer.

22. The Clerk of the House shall at the earliest practicable moment after he receives the disclaimer, transmit or deliver a copy thereof to the Registrar of the Court of Appeal, who shall give notice of such disclaimer to any person who has filed, or who may thereafter present to be filed a petition against the member so disclaiming. 58 V. c. 4, s. 9.

Permitting petition to be filed where corruption charged.

23. Notwithstanding anything in this Act contained a Judge of the Court of Appeal may, notwithstanding such disclaimer, upon the application of any voter in the electoral district within ten days after the Registrar of the Court of Appeal shall have received notice of such disclaimer, upon its being made to appear that corruption has extensively prevailed at the election, permit a petition to be filed in the same manner and as though no such disclaimer had been made, or may, upon the grounds aforesaid, permit proceedings upon any petition which has been filed to proceed upon such terms as he may think fit. 58 V. c. 4, s. 10.

Issuing writ when no petition filed after disclaimer.
Rev. Stat. c. 11.

24. If no petition is filed within the time limited for that purpose by *The Ontario Controverted Elections Act*, or if the petition is dismissed, the Lieutenant-Governor in Council shall direct the issue of a new writ for the election of a member in the place of the member disclaiming ; and the writ shall issue accordingly. 58 V. c. 4, s. 11.

FILLING VACANCIES WHEN MEMBER RESIGNS OR ELECTION DECLARED VOID.

Member may resign his seat.

25. A member of the Legislative Assembly may voluntarily resign and vacate his seat in the manner hereinafter provided. R. S. O. 1887, c. 11, s. 16.

Resignation of seats by members before meeting of the Assembly.

26.—(1) If a person returned as elected to the Legislative Assembly for one or more constituencies at a general election, wishes to resign his seat or one of his seats, before the first meeting of the said Assembly thereafter, he may address or cause to be addressed, to any two members elect of the said Assembly, a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses ; and the two members, upon receiving the declaration, shall forthwith address their warrant, under their hands and seals, to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member in the place of the member so notifying his intention to resign, and the writ shall issue accordingly ; and the member so tendering his resignation shall be held to have vacated the seat, and shall cease to be a member of the said Assembly in respect to the seat so vacated.

(2) But no member elect shall so tender his resignation for a seat in respect of which his election is lawfully contested, nor until after the expiration of twenty-one days from the time the return of his election was made to the Clerk of the Crown in Chancery. R. S. O. 1887, c. 11, s. 17.

When resignation may be tendered.

27. The election to be held under such writ shall not in any manner affect the right of any person entitled to contest the previous election and claim the seat; and the Judge or Judges trying the previous election shall determine whether the member who has so resigned, or any other person was duly returned or elected thereat; which determination, if adverse to the return of such member, and in favour of any other candidate, shall avoid the election held under section 26, and the candidate declared duly elected at the previous election shall be entitled to take his seat as if no such subsequent election had been held. R. S. O. 1887, c. 11, s. 18.

New election not to affect the right to contest previous election.

28. Forthwith after the receipt by the Speaker, or, in case there is no Speaker, by the Clerk of the House, of a certificate of the Judge or Judges determining an election petition and certifying that the election was void, or of a certificate of the Registrar of the Court of Appeal certifying that the election was void, the Speaker or Clerk, as the case may be, shall address his warrant under his hand and seal to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member for the constituency the election for which has been certified to be void, and the writ shall issue accordingly. R. S. O. 1887, c. 11, s. 19.

Issue of writ for new election, when election declared void.

29. The Speaker shall forthwith after the receipt of the certificate, as in the preceding section mentioned, communicate the same to the Clerk for his guidance. R. S. O. 1887, c. 11, s. 20.

Speaker to notify to Clerk.

30. The proceedings taken under the preceding four sections by the Speaker or Clerk shall be reported by the Speaker to the Legislative Assembly at the earliest practicable time, and shall be forthwith entered on the Journals of the Legislative Assembly. R. S. O. 1887, c. 11, s. 21.

Proceedings to be reported to Legislative Assembly.

31. In case any person returned as elected is, by the certificate of the Judge appointed to try an election petition in respect of the election, determined not to have been duly returned or elected, such person shall not thereafter unless re-elected sit or vote in that Legislative Assembly. R. S. O. 1887, c. 11, s. 22.

Persons declared not elected not to sit or vote.

32. In case any person, other than the person returned as elected, is by the certificate of the Judge appointed to try an election petition determined to have been duly returned or

Persons declared elected by Judge may sit and vote.

elected, such person shall thereupon be entitled to sit and vote in the Legislative Assembly. R. S. O. 1887, c. 11, s. 23.

Writ not to issue during session.

33. No writ shall issue under any of the provisions of the next preceding seven sections during a Session of the Legislative Assembly. R. S. O. 1887, c. 11, s. 24.

Resignation by member giving notice in his place in the Legislative Assembly.

34.—(1) A member wishing to resign his seat may do so by giving in his place in the Legislative Assembly notice of his intention to resign it, in which case and immediately after such notice has been entered by the Clerk on the Journals of the Legislative Assembly, the Speaker shall address his warrant under his hand and seal to the Clerk of the Crown in Chancery, for the issue of a writ for the election of a new member in the place of the member resigning.

Or by notice in writing to the Speaker.

(2) Or a member may address and cause to be delivered to the Speaker a declaration of his intention to resign his seat, made in writing under his hand and seal before two witnesses, which declaration may be so made and delivered either during a Session of the Legislature, or in the interval between two Sessions; and the Speaker shall, upon receiving such declaration, forthwith address his warrant under his hand and seal to the Clerk of the Crown in Chancery, for the issue of a writ for the election of a new member in the place of the member so resigning, and a writ shall issue accordingly; and an entry of the declaration so delivered to the Speaker shall be thereafter made in the Journals of the Legislative Assembly.

Seat vacated on such notice.

(3) The member so tendering his resignation shall be held to have thereby vacated his seat, and to have ceased to be a member of the Legislative Assembly.

No member to resign contested seat.

(4) No member shall so tender his resignation while his election is lawfully contested, nor until after the expiration of the time during which it may by law be contested on other grounds than corruption or bribery. R. S. O. 1887, c. 11, s. 25.

Proceedings where a member wishes to resign where there is no Speaker, or the member is himself the Speaker.

35. If a member of the Legislative Assembly wishes to resign his seat in the interval between two Sessions of the Legislature, and there is then no Speaker, or if such member is himself the Speaker, he may address and cause to be delivered to two members of the said Assembly, the declaration before mentioned of his intention to resign, and the two members, upon receiving the declaration, shall forthwith address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member in the place of the member so notifying his intention to resign, and the writ shall issue accordingly; and the member so tendering his resignation shall be held to have vacated his seat and shall cease to be a member of the said Assembly. R. S. O. 1887, c. 11, s. 26.

36.—(1) If a vacancy happens in the Legislative Assembly by the death of a member, or by his accepting any office, commission or employment, or by his becoming a party to a contract as mentioned in section 9 of this Act, the Speaker, on being informed of the vacancy by a member of the said Assembly in his place, or by notice in writing under the hands and seals of two members of the said Assembly, shall forthwith address his warrant to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member to fill the vacancy, and a new writ shall issue accordingly.

Proceedings in case of vacancy by death or acceptance of office.

(2) If when a vacancy happens, or at any time thereafter, before the Speaker's warrant for a new writ has issued, there is no Speaker of the said Assembly, or the Speaker is absent from the Province, or if the member whose seat is vacated is himself the Speaker, then two members of the said Assembly may address their warrant under their hands and seals to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member to fill the vacancy, and the writ shall issue accordingly. R. S. O. 1887, c. 11, s. 27.

Proceedings when Speaker is absent from Ontario, or there is no Speaker.

37.—(1) A warrant may issue under the hands and seals of two members elect of the Legislative Assembly to the Clerk of the Crown in Chancery for the issue of a new writ for the election of a member of the Legislative Assembly, to fill any vacancy arising subsequently to a general election and before the first meeting of said Assembly thereafter, by reason of the death or other of the causes aforesaid, and the writ may issue at any time after such vacancy.

Warrant for filling a vacancy before Legislative Assembly meets after a general election.

(2) The election to be held under the writ shall not in any manner affect the rights of any person entitled to contest the previous election; and the report of the Court or Judge appointed to try the previous election shall determine whether the member who has so died or whose seat has become so vacant as aforesaid, or any other person, was duly returned or elected thereat, which determination, if adverse to the return of such member and in favour of any other candidate, shall avoid the election held under this section, and the candidate declared duly elected at the previous election shall be entitled to take his seat as if no subsequent election had been held, R. S. O. 1887, c. 11, s. 28.

Election being contested not affected.

SPEAKER OF THE LEGISLATIVE ASSEMBLY.

38. The Legislative Assembly on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be Speaker. R. S. O. 1887, c. 11, s. 29.

Election of Speaker

39. In case of a vacancy happening in the office of Speaker, by death, resignation or otherwise, the Legislative Assembly shall with all practicable speed proceed to elect another of its members to be Speaker. R. S. O. 1887, c. 11, s. 30.

Filling vacancy in office of Speaker.

Speaker's salary.

40. Such salary shall be payable to the Speaker of the Legislative Assembly as may be voted by the Legislature. R. S. O. 1887, c. 11, s. 31; 60 V. c. 15, Sched. A, (5).

Speaker to preside.

41. The Speaker shall preside at all meetings of the Legislative Assembly. R. S. O. 1887, c. 11, s. 32.

In case of illness, etc., of the Speaker, he may call on any member to take the chair *pro tem*.

42. Whenever, from illness or other cause, the Speaker finds it necessary to leave the chair during any part of the sittings of the said Assembly on any day, he may call upon any member thereof to take the chair and to act as Speaker during the remainder of the day unless the Speaker himself resumes the chair before the close of the sittings for that day; and the member so called upon shall take the chair and act as Speaker accordingly. R. S. O. 1887, c. 11, s. 34.

When Assembly may elect a Speaker for the day.

43. Whenever the Speaker, from illness or other unavoidable cause, cannot be present at the meeting of the Assembly on any day, it shall be lawful for the said Assembly to elect a member to take the chair and preside as Speaker for that day. R. S. O. 1887, c. 11, s. 35.

Provision in case of absence of Speaker.

44. In case of the absence for any reason of the Speaker from the chair of the Legislative Assembly for a period of forty-eight consecutive hours, the House may elect another of its members to act as Speaker, and the member so elected shall during the continuance of the absence of the Speaker have and execute all the powers, privileges, and duties of Speaker. R. S. O. 1887, c. 11, s. 33.

Acts and orders of the Assembly while acting Speaker presides valid.

45. Every Act passed, and every order made and thing done by the said Assembly while any member is acting or presiding as Speaker as aforesaid, shall be as valid and effectual, to all intents and purposes, as if done while the Speaker himself was presiding in the chair. R. S. O. 1887, c. 11, s. 36.

POWERS AND PRIVILEGES OF THE LEGISLATIVE ASSEMBLY.

Power to compel attendance of witnesses, etc.

46. The Legislative Assembly may at all times command and compel the attendance before the Assembly, or before any Committee thereof, of such persons, and the production of such papers and things as the Assembly or Committee may deem necessary for any of its proceedings or deliberations. R. S. O. 1887, c. 11, s. 37.

Speaker's warrant for attendance, etc.

47. Whenever the Legislative Assembly requires the attendance of any persons before the said Assembly or before a Committee thereof, the Speaker may issue his warrant or subpoena, directed to the persons named in the Order of the Legislative Assembly, requiring the attendance of such persons before the Legislative Assembly or a Committee thereof, and the production of such papers and things as may be ordered. R. S. O. 1887, c. 11, s. 38.

48. No person shall be liable, in damages or otherwise, for any act done under the authority of the Legislative Assembly, and within its legal power, or under or by virtue of any warrant issued under such authority: all such warrants may command the aid and assistance of all sheriffs, bailiffs, constables, and others, and every refusal or failure to give such aid or assistance when required shall be an infringement of this Act. R. S. O. 1887, c. 11, s. 39.

Protection of persons acting under authority. Warrants may command aid.

49. No member of the Assembly shall be liable to any civil action or prosecution, arrest, imprisonment, or damages, by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the said Assembly. R. S. O. 1887, c. 11, s. 40.

Privilege of speech, etc.

50. Except for a breach of this Act, no member of the Assembly shall be liable to arrest, detention or molestation for any debt or cause whatever of a civil nature within the legislative authority of this Province, during a Session of the Legislature, or during the twenty days preceding or the twenty days following the Session. R. S. O. 1887, c. 11, s. 41.

Freedom from arrest.

51. During the periods mentioned in the preceding section all members, officers and employees of the Assembly, and all witnesses summoned to attend before the same or a Committee thereof, shall be exempt from serving or attending as jurors before any Court of Justice in this Province. R. S. O. 1887, c. 11, s. 42.

Exemption of members and officers from serving as jurors.

52. No member of the Legislative Assembly shall knowingly accept or receive, either directly or indirectly, any fee, compensation or reward for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted or intended to be submitted to the consideration of the said Assembly or of a Committee thereof. R. S. O. 1887, c. 11, s. 43.

Members not to receive fees for drafting bills, etc.

53. No barrister or solicitor who, in the practice of his profession, is a partner of a member of the Legislative Assembly, shall accept or receive, either directly or indirectly, any fee, compensation or reward for or in respect of any matter or thing in the preceding section mentioned. R. S. O. 1887, c. 11, s. 44.

Barristers, etc., being partners of members not to receive fees for drafting bills, etc.

54. Any person wilfully violating the provisions of the preceding two sections of this Act shall be subject to a penalty of \$500 over and above the amount or value of the fee, compensation or reward accepted or received by him, to be paid with full costs of action to any one who will sue therefor, one half thereof to be paid to the person so suing and the other half to Her Majesty for the public uses of this Province. R. S. O. 1887, c. 11, s. 45.

Penalty for violation of ss. 52 and 53.

Breach of s. 52 to be deemed a corrupt practice.

55. Any violation of section 52 shall be deemed a corrupt practice, and an election petition setting up the same may be filed within six months after the offence in the same manner, and the proceeding thereupon and the effect of every judgment, report and order therein shall be the same as in the case of other election petitions. R. S. O. 1887, c. 11, s. 46.

Seat of member guilty of a violation of s. 52 to be vacated.

56. In case judgment is recovered against a member of the Legislative Assembly for any penalty under section 54 of this Act, or in case, by a resolution of the said Assembly, it is declared that a member thereof has been guilty of a violation of section 52 of this Act, or in case on the trial of an election petition filed within six months from the alleged violation, it is found by the Judge trying the petition that a member has committed a violation of section 52 of this Act, the election of such member shall thereby become void, and the seat of such member shall be vacated, and a writ shall issue for a new election as if he were naturally dead, and the said member shall *ipso facto* be incapable of being elected to or of sitting in the Legislative Assembly during the then existing House of Assembly. R. S. O. 1887, c. 11, s. 47.

Legislative Assembly to have jurisdiction to try certain matters.

57.—(1) The said Assembly shall have all the rights and privileges of a Court of Record for the purpose of summarily inquiring into and punishing, as breaches of privilege or as contempt of Court (without prejudice to the liability of the offenders to prosecution and punishment criminally or otherwise according to law, independently of this Act), the acts, matters and things following:—

Assaults, insults, libels,

1. Assaults, insults or libels upon members of the Legislative Assembly during the Session of the Legislature and twenty days before and after the same;

Threats,

2. Obstructing, threatening or attempting to force or intimidate members of the said Assembly;

Bribery and offering of fee,

3. The offering to or the acceptance of a bribe by any member of the said Assembly to influence him in his proceedings as such, or the offering to or acceptance of any fee, compensation or reward by any member for or in respect of the drafting, advising upon, revising, promoting or opposing any bill, resolution, matter or thing submitted to or intended to be submitted to the said Assembly or any Committee thereof;

Interference with officers,

4. Assaults upon or interference with officers of the said Assembly, while in the execution of their duty;

Tampering with witness,

5. Tampering with any witness in regard to evidence to be given by him before the said Assembly, or any Committee thereof;

False evidence,

6. Giving false evidence or prevaricating or otherwise misbehaving in giving or refusing to give evidence or to produce papers before the said Assembly or any Committee thereof;

7. Disobedience to subpoenas or warrants issued under the authority of this Act requiring the attendance of witnesses before the said Assembly or any of its Committees ; Disobedience to subpoena,

8. Presenting to the said Assembly or to any Committee thereof a forged or false document, with intent to deceive the said Assembly or Committee ; Presenting false document,

9. Forging, falsifying or unlawfully altering any of the records of the said Assembly, or of any Committee thereof, or any document or petition presented or filed or intended to be presented or filed before the said Assembly or Committee, or the setting or subscribing, by any person, of the name of another person to any such document or petition with intent to deceive ; Falsifying records, etc.

10. The bringing of any civil action or prosecution against, or the causing or effecting of any arrest or imprisonment of, any member of the said Assembly in any civil proceeding, for or by reason of any matter or thing brought by him by petition, bill, resolution, motion or otherwise, or said by him before the said Assembly ; Bringing action or arresting for conduct as member,

11. The causing or effecting of the arrest, detention, or molestation of a member of the said Assembly for any debt or cause whatever of a civil nature, during a session of the said Assembly, or during the twenty days preceding or the twenty days following such Session. Arresting for debt, etc.

(2) For the purposes of this Act, the said Assembly is hereby declared to possess all such powers and jurisdiction as may be necessary or expedient for inquiring into, judging and pronouncing upon the commission or doing of any such acts, matters or things, and awarding and carrying into execution, the punishment thereof provided for by this Act. R. S. O. 1887, c. 11, s. 48. Jurisdiction given as to inquiring and punishing.

58. Every person who, upon such inquiry, appears to have committed or done any of the acts, matters, or things in section 57 mentioned, in addition to any other penalty or punishment to which he may by law be subject, shall be liable to an imprisonment for such time, during the Session of the Legislative Assembly then being held, as may be determined by the Legislative Assembly. R. S. O. 1887, c. 11, s. 49. Punishment for contravention of s. 57.

59. Whenever the Legislative Assembly declares that any person has been guilty of a contempt for any of the acts, matters and things in section 57 set forth, and directs such person to be taken into custody or to be imprisoned, the Speaker shall issue his warrant to the Sergeant-at-arms attending the House, or to the keeper or governor of the common gaol in the County of York, to take such person into custody and to keep and detain him in custody in accordance with the order of the said Legislative Assembly in that behalf. R. S. O. 1887, c. 11, s. 50. Proceeding on contravention of s. 57, and arrest therefor.

Decision of
Legislative
Assembly to
be final.

60. The determination of the Legislative Assembly upon any proceeding under this Act, and within the Legislative authority of this Province, shall be final and conclusive. R. S. O. 1887, c. 11, s. 51.

Protection of
persons pub-
lishing papers,
etc., by order
of Legislative
Assembly.

61. In case of any civil proceeding or prosecution against any person for, or on account or in respect of, the publication of any copy of any report, paper, votes or proceedings, printed by order of the Assembly, the defendant, at any stage of the proceedings, may lay before the Court or Judge such report, paper, votes or proceedings, and such copy, with an affidavit verifying such report, paper, votes or proceedings, and the correctness of such copy, and that such report, paper, votes or proceedings were printed and published by order of the said Legislative Assembly; and the Court or Judge shall immediately stay the civil proceeding, and the same and every writ or process issued therein, shall be, and shall be deemed to be, finally put an end to, determined and superseded by virtue of this Act. R. S. O. 1887, c. 11, s. 52.

Protection of
persons
publishing
abstracts of
papers printed
by order of
Legislative
Assembly.

62. It shall be lawful in any civil proceeding against a person for printing any extract from or abstract of any such report, paper, votes or proceedings, to give in evidence, under the defence of not guilty by statute, such report, paper, votes or proceedings, and to shew that the extract or abstract was published *bona fide* and without malice, and if such is the opinion of the Court or of the Jury, as the case may be, judgment shall be rendered, or a verdict shall be entered for the defendant. R. S. O. 1887, c. 11, s. 53.

Printed copies
of Journals to
be evidence.

63. In such proceeding, a copy of the Journals of the Legislative Assembly, printed or purporting to be printed by the order of the same, shall be admitted as evidence of such Journals by all Courts, Justices and others, without proof being given that such copies were so printed. R. S. O. 1887 c. 11, s. 54.

Act not to
abridge privi-
leges, etc.,
inherent in
Legislative
Assembly or
its members.

64. Except so far as is provided in section 52 of this Act nothing herein shall be construed to deprive the Legislative Assembly, or any Committee or member thereof, of any rights, immunities, privileges or powers which the said Assembly, Committee or member might, but for this Act, have been entitled to exercise or enjoy. R. S. O. 1887, c. 11, s. 55.

QUORUM AND MANNER OF VOTING.

Quorum of
Legislative
Assembly.

65. The presence of at least twenty members of the Legislative Assembly shall be necessary to constitute a meeting of the Legislative Assembly for the exercise of its powers; and for that purpose the Speaker shall be reckoned. R. S. O. 1887, c. 11, s. 56.

66. Questions arising in the Legislative Assembly shall be decided by a majority of voices other than that of the Speaker, and when the voices are equal, but not otherwise, the Speaker shall have a vote. R. S. O. 1887, c. 11, s. 57.

Voting in
Legislative
Assembly.

MONEY VOTES.

67. The Legislative Assembly shall not originate or pass any vote, resolution, address or bill for the appropriation of any part of the consolidated revenue fund, or of any other tax or impost, to any purpose which has not been first recommended by a message of the Lieutenant-Governor to the Legislative Assembly during the session in which the vote, resolution, address or bill is proposed. R. S. O. 1887, c. 11, s. 58.

Appropriation
of any part of
Consolidated
Revenue Fund
to be first re-
commended by
Lieutenant-
Governor.

ESTATE BILLS.

68. The Lieutenant-Governor in Council may, from time to time, issue commissions to the Judges of the Supreme Court empowering them, or any two of them, to report under the Rules and Orders of the Legislative Assembly, to the said Assembly, in respect to estate bills, or petitions for estate bills, which may be submitted to the said Assembly. R. S. O. 1887, c. 11, s. 59.

Lieut.-Governor may issue
Commissions
to Judges to
report on
estate bills.

OATHS TO WITNESSES.

69. Any standing or select committee of the Legislative Assembly may require that facts, matters and things relating to the subject of inquiry be verified or otherwise ascertained by the oral examination of witnesses, and may examine such witnesses upon oath, and for that purpose the Chairman or any member of the Committee may administer an oath, in the form of Schedule B to this Act, to any witness. R. S. O. 1887, c. 11, s. 60.

Committees of
Legislative
Assembly may
examine on
oath.

70. Where witnesses are not required to be orally examined before a Committee, any oath, affirmation, declaration, or affidavit in writing, which is required to be made or taken by or according to any rule or order of the Legislative Assembly, or by the direction of any Committee, and in respect to any matter or thing pending or proceeding before the committee, may be made and taken before the Clerk of the House, the clerk of the Committee, or a commissioner for taking affidavits in the High Court. R. S. O. 1887, c. 11, s. 61.

Affidavits to
be used by
committee be-
fore whom to
be made.

INDEMNITY TO MEMBERS.

71. In every session of the Legislative Assembly there shall be allowed to each member of the Legislative Assembly attending at the session, \$6 for each day's attendance, if the session does not extend beyond thirty days, and if the session extends beyond thirty days then there shall be payable to

Allowance to
members for
attendance at
any Session.

each member attending at such session, a sessional allowance of such sum as may from time to time be appropriated for the purpose. R. S. O. 1887, c. 11, s. 62.

Deductions for non-attendance.

What shall be reckoned as days of attendance.

72.—(1) A deduction at the rate of \$4 per day shall be made from his sessional allowance for every day on which a member does not attend a sitting of the House, or of some committee thereof, in case the House sits on such day; but each day during the session, after the first on which the member attends as aforesaid, on which there has been no sitting of the House, in consequence of its having adjourned over the day, or on which the member was in the place where the session was held, but was prevented by sickness from attending the sitting as aforesaid, shall be reckoned as a day of attendance at the session, for the purposes of this Act, and a member shall, for the purposes aforesaid, be held to be at the place where the session is held whenever he is within ten miles of such place. R. S. O. 1887, c. 11, s. 63.

(2) No deduction shall be made for or on account of the necessary absence of a member, so long as such absence shall not exceed six days during any session. 60 V. c. 14, s. 81.

Allowance for less than thirty-one days' attendance.

73. A member shall not be entitled to the said sessional allowance for less than thirty-one days' attendance, reckoned as aforesaid, but his allowance for any less number of days shall be \$6 for each day's attendance. R. S. O. 1887, c. 11, s. 64.

How the compensation shall be payable.

74. The compensation may be paid from time to time, as the member becomes entitled to it, to the extent of \$4 for each day's attendance as aforesaid, but the remainder shall be retained by the Clerk of the House until the close of the session, when the final payment shall be made. R. S. O. 1887, c. 11, s. 65.

Where a person is a member for only part of the Session.

75. If a person is from any cause a member of the Legislative Assembly for a part only of a session, then, in case he is a member for upwards of thirty days during the Session, he shall be entitled to the sessional allowance hereinbefore mentioned, subject to the deduction aforesaid for non-attendance as a member, and also to a deduction of \$4 for each day of the session before he was elected, or after he ceased to be a member; but if he is a member for only thirty days or less, then he shall be entitled only to \$6 for each day's attendance at the session, whatever be the length thereof. R. S. O. 1887, c. 11, s. 66.

Allowance for mileage.

76. There shall be also allowed to every member ten cents for every mile of the distance between his place of residence and the City of Toronto, reckoning the distance going and coming according to the nearest mail route, which distance shall be determined and certified by the Speaker. R. S. O. 1887, c. 11, s. 67.

77. The sum due to every member at the close of a session shall be calculated and paid to him by the Clerk of the House, on his making and signing before the Clerk or Accountant of the House, or a Justice of the Peace, a solemn declaration, to be kept by the Clerk, stating the number of days' attendance and the number of miles of distance according to the nearest mail route, as determined and certified by the Speaker, for which he is entitled to the said allowance, and the amount of such allowance, after deducting the number of days (if any) which are to be deducted under any preceding section of this Act; and the declaration may be in the form of Schedule C hereunto annexed, and shall have the same effect as an affidavit in the same form. R. S. O. 1887, c. 11, s. 68.

Final payment
at the close of
Session.

Declaration to
be made by
members.

78. There is hereby granted to Her Majesty, out of any unappropriated moneys forming part of the Consolidated Revenue Fund of this Province, an annual sum sufficient to enable Her Majesty to advance to the Clerk of the Legislative Assembly such sums as are required to pay the estimated amounts of the sessional allowance hereinbefore mentioned. R. S. O. 1887, c. 11, s. 69.

Grant for pay-
ing the allow-
ance.

79. The Clerk of the Legislative Assembly shall account for all moneys received by him under this Act, in the same manner as for moneys advanced to him for the contingent expenses of the Legislative Assembly, and he may apply any surplus thereof to the payment of such contingent expenses, and may supply any deficiency of such estimated amount out of any moneys in his hands applicable to the payment of such contingent expenses. R. S. O. 1887, c. 11, s. 70.

Clerk to
account for
moneys re-
ceived by him.

80. The next preceding nine sections may be cited as "*The Members' Indemnity Clauses*" of this Act. R. S. O. 1887, c. 11, s. 71.

Short mode of
citing certain
sections.

SCHEDULE A.

(Referred to in Section 18.)

FORM OF MEMBER'S OATH AS TO EXPENSES OF ELECTION.

I, _____ of the _____, elected to represent the Electoral District of _____ (as the case may be,) in the Legislative Assembly of the Province of Ontario, make oath and say:—That, except in respect of my personal expenses, I have not made, before, during or since the election, any payment, advance, loan, or deposit for the purposes of the election last held for the said Electoral District otherwise than through A. B. and C. D., my agents duly appointed under *The Ontario Election Act*; and that I will not hereafter make any payment, loan or deposit in respect of the said election, except through an agent or agents appointed under the said Act. I further say that I have not been guilty of any corrupt practice in respect of the said election.

Sworn before me, this _____ day of _____ A.D. 18____.

C. C.
Clerk of the Legislative Assembly
of the Province of Ontario.
R. S. O. 1887, c. 11, Sched. A.

SCHEDULE B.

(Referred to in Section 69.)

FORM OF OATH TO BE ADMINISTERED.

The evidence you shall give to this Committee touching the subject of the present inquiry shall be the truth, the whole truth, and nothing but the truth : So help you God.

R. S. O. 1887, c. 11, Sched. B.

SCHEDULE C.

(Referred to in Section 77.)

DECLARATION TO OBTAIN SESSIONAL ALLOWANCE.

I, *A. B.*, one of the members of the Legislative Assembly, solemnly declare that I reside at _____, in _____, which is distant by the nearest mail route _____ miles, as determined by the Speaker of the Legislative Assembly, from the City of Toronto, where the Session of the Legislative Assembly of Ontario, which began on the _____ day of 18____, was held.

That the first day during the said Session on which I was present at Toronto, where the said Session was held, was the _____ day of _____, 18____.

That on the said day, and on each day of the said Session, after the said day, on which there was a sitting of the said Legislative Assembly, I attended such sitting, or a sitting of some Committee thereof, (a) except only on _____ days, (b) on _____ of which I was prevented by sickness from attending as aforesaid, though I was then present at the said City of Toronto (c).

(Signature) A. B.

Declared before me at _____ the _____ day of _____ 18____.

J. N.

Clerk (or Accountant) of the Legislative Assembly,
or Justice of the Peace for the
of _____
(as the case may be.)

If the member attended a sitting of the House, or of some Committee, on every sitting day after the first on which he so attended, omit the words from (a) to (c); and if his non-attendance was not on any day occasioned by sickness, omit the words from (b) to (c).

If the person making the declaration became or ceased to be a member after the commencement of the Session, vary the form so as to state correctly the facts upon which the sum due to the member is to be calculated.

R. S. O. 1887, c. 11, Sched. C.

SECTION IV.

EXECUTIVE GOVERNMENT AND PUBLIC OFFICERS.

CHAPTER 13.

An Act respecting the Lieutenant-Governor and his Deputies.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. In matters within the jurisdiction of the Legislature of the Province, all powers, authorities and functions which, in respect of like matters, were vested in or exercisable by the Governors or Lieutenant-Governors of the several provinces now forming part of the Dominion of Canada or any of the said provinces, under commissions, instructions or otherwise, at or before the passing of *The British North America Act, 1867*, are, and shall be (so far as this Legislature has power thus to enact) vested in and exercisable by the Lieutenant-Governor or Administrator for the time being of this Province, in the name of Her Majesty or otherwise as the case may require; subject always to the Royal Prerogative as heretofore. 51 V. c. 5, s. 1.

Powers vested
in Lieutenant-
Governor.

2. The preceding section shall be deemed to include the power of commuting and remitting sentences for offences against the laws of this Province, or offences over which the legislative authority of this Province extends. 51 V. c. 5, s. 2.

Power to
remit
sentences.

3. Nothing in this Act contained shall be construed to imply that the Lieutenant-Governor or Administrator has not had heretofore the powers, authorities and functions in the preceding two sections mentioned. 51 V. c. 5, s. 3.

Construction
of Act.

4. The Lieutenant-Governor and his successors shall be a corporation sole;—and all bonds, recognizances, and other instruments by law required to be taken to him in his public

Lieutenant-
Governor to
be a corpora-
tion sole.

capacity, shall be taken to him and his successors by his name of office, and may be sued for and recovered by him or his successors, by his or their name of office as such; and the same shall not in any case go to or vest in the personal representatives of the Lieutenant-Governor, during whose government the same were so taken. R. S. O. 1887, c. 12, s. 1.

Power to
appoint
Deputies for
certain pur-
poses.

5. The Lieutenant-Governor may, with the advice and consent of the Executive Council, from time to time appoint any person or persons, jointly or severally, to be his Deputy or Deputies for the Province or any part or parts thereof, for the purpose of executing marriage licenses, money warrants and commissions under any Act of the Legislature of Ontario. R. S. O. 1887, c. 12, s. 2.

CHAPTER 14.

An Act respecting the Executive Council.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Executive Council shall be composed of such persons as the Lieutenant-Governor from time to time thinks fit. R. S. O. 1887, c. 13, s. 1 as amended by 51 V. c. 8, s. 3. Executive Council of Ontario.

2. The Lieutenant-Governor may appoint under the Great Seal of the Province from among such persons as may be appointed members of the Executive Council the following officers to hold office during pleasure, that is to say:—an Attorney-General, a Secretary and Registrar of the Province, a Treasurer of the Province, a Commissioner of Crown Lands, a Minister of Agriculture, a Commissioner of Public Works, and a Minister of Education; and may by Order in Council from time to time prescribe the duties of the said officers and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof; and may also appoint other and additional officers to hold office during pleasure, and may from time to time prescribe the duties of such officers, and of the several departments over which they shall preside or to which they shall belong, and of the officers and clerks thereof. R. S. O. 1887, c. 13, s. 2; 58 V. c. 10, s. 1. Appointment of Executive Officers.

3. Any of the powers and duties which have been heretofore, or may be hereafter, assigned by law to the officers now constituting, or who may hereafter constitute, the Executive Council, may, from time to time, by Order in Council, be assigned and transferred, either for a limited period or otherwise, to any other of the said officers by name or otherwise. R. S. O. 1887, c. 13, s. 3; Duties of members of Executive Council may be assigned to other members.

4. If a member of the Executive Council of Ontario, while he holds such office, sits or votes as a member of the House of Commons of Canada, he shall thereby forfeit his office of Executive Councillor, and his appointment as Executive Councillor shall from thenceforth be and become null and void, and he shall be incapable of being re-appointed to or holding the office of Executive Councillor of Ontario so long as he is a member of the House of Commons of Canada. R. S. O. 1887, c. 13, s. 4. Executive Councillor sitting or voting in House of Commons to forfeit his office, etc.

CHAPTER 15.

An Act respecting the Public Service of Ontario.

SHORT TITLE, s. 1.	AIDING OTHER DEPARTMENTS, s. 24.
INTERPRETATION, s. 2.	REPORTS AS TO CLERKS, s. 25.
DIVISIONS OF DEPARTMENTAL STAFF, ss. 3, 4.	LEAVE OF ABSENCE, s. 26.
APPOINTMENTS AND PROMOTIONS, ss. 4-13.	GRATUITIES, s. 27.
CHIEF CLERKS, ss. 14, 16	REDUCTION TO LOWER CLASS, s. 28.
FIRST-CLASS CLERKS, s. 15.	FINES, s. 29.
DEPUTY HEADS OF DEPARTMENTS, ss. 17, 18.	HOURS OF ATTENDANCE, s. 30.
NUMBER OF OFFICERS AND CLERKS AND THEIR CLASSIFICATION, s. 19.	PAYMENT OF INCREASED SALARIES, s. 31.
EMPLOYMENT OF EXTRA CLERKS, s. 20.	OFFICERS OF HIGH COURT, ETC., s. 32.
EXTRA SERVICES, ss. 21, 30.	EXAMINATIONS, ss. 33-34.
SALARIES, s. 22.	RULES FOR CARRYING ACT INTO EF- FECT, s. 35.
POWER OF DISMISSAL, s. 23.	OATHS OF OFFICE, s. 36.
	APPLICATION OF ACT TO OFFICERS OF LEGISLATIVE ASSEMBLY, s. 37.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

Short title. **1.** This Act may be cited as "*The Ontario Public Service Act.*" R. S. O., 1887, c. 14. s. 1.

Interpretation
"Head of De-
partment," **2.** In this Act the expression "Head of a Department," means the member of the Executive Council for the time being presiding over such department. R. S. O. 1887, c. 14, s. 2.

Two divisions
of staff of
Civil Service. **3.**—(1) The Departmental Staff of the Civil Service of Ontario at the seat of Government shall consist of two divisions, that is to say: the "Ordinary Division," and the "Special Division."

Special divi-
sion; two
classes thereof. (2) The Special Division shall include all those offices, whether now existing or hereafter to be created, which require for their exercise some skill usually acquired only in some professional or other pursuit, different from the Civil Service, and shall consist of two classes, that is to say, Officers and Clerks.

(3) The Ordinary Division shall include all those offices, whether now existing or hereafter to be created, which are not comprised in the Special Division, and shall consist of the Deputy Heads of Departments, Officers or Chief Clerks, Clerks, and Probationary Clerks. R. S. O. 1887, c. 14, s. 3.

4.—(1) Clerks in the Ordinary Division shall be divided into four classes.

Four classes of clerks in ordinary division.

(2) A fourth class clerk shall receive a salary of not more than \$400 for his first year's service as such, and may thereafter have an annual increase of \$50 per annum until his salary is \$650 per annum, but he shall not be eligible for promotion into the third class until after four years' service in the fourth class.

Salaries and promotion.

(3) A third class clerk shall receive a salary of not more than \$700 for his first year's service as such, and may thereafter have an annual increase of \$50 per annum until his salary is \$950 per annum, but he shall not be eligible for promotion into the second class, until after five years' service in the third class; but no clerk shall from having served four years in the fourth class, or from having served five years in the third class, be absolutely entitled to promotion into the next higher class.

(4) A second class clerk shall receive a salary of not more than \$1000 for his first year's service as such, and may have an annual increase of \$50 per annum until his salary is \$1,200 per annum, but he shall be eligible for promotion into the first class at any period of his service in the second class.

(5) A first class clerk shall receive a salary of not more than \$1,200 per annum, and may have an annual increase of \$50 per annum until his salary is \$1,400 per annum, but if any clerk promoted into the first class has at the time of such promotion a higher salary than \$1,200 per annum, he shall continue to receive such salary until by length of service in the first class, he has a right to that amount as a first class clerk, from which time he shall receive an annual increase of \$50 per annum until his salary is \$1,400 per annum, and he shall be eligible for promotion at any period of his service in the first class.

(6) No clerk shall have an absolute right to the annual increase of salary authorised by this Act, but the same may be suspended and subsequently restored by the head of the department but without payment of arrears.

Suspension of increase.

(7) The annual increase of salary shall be payable from the first day of the quarter next succeeding the date at which, from his length of service any clerk may be eligible for such increase.

Terms of payment of increase.

(8) In case of promotion the increase of salary shall become payable from the first day of the month next succeeding the date at which such promotion took place.

Salary on promotion.

Salaries in special division.

(9) Officers and clerks in the Special Division shall receive such salaries respectively as may be assigned to them by Order in Council, and voted by the Legislature. R. S. O. 1887, c. 14, s. 4.

APPOINTMENTS AND PROMOTIONS.

Members of Senate or Commons not to hold permanent office at a salary.

5. No member of the Senate of Canada, or of the Commons of Canada, shall be appointed to or shall hold any permanent office or employment in the service of the Government of Ontario, at the nomination of the Crown or of the Lieutenant-Governor, to which a salary, or other emolument in lieu of salary is attached; but this section shall not be held to include justices of the peace, coroners, or notaries public, or persons holding any like office. R. S. O. 1887, c. 14, s. 5.

Appointments and promotion how made.

6. No appointment or promotion shall be made except under the authority of the Lieutenant-Governor in Council upon the application and report of the head of the department in which it is to be made. R. S. O. 1887, c. 14, s. 6.

Probational employment.

7. Every person entering the civil service within the meaning of this Act shall, except as hereinafter provided, be subject to a probation of six months, and shall be conditionally employed in the lowest, or, where in the opinion of the Lieutenant-Governor in Council, special but not professional qualifications are required, he may be employed in the third class in that division of the service to which he is attached, at the minimum salary of such class. R. S. O. 1887, c. 14, s. 7.

Evidence as to character, etc.

8. Every candidate for admission into the civil service shall, as a condition precedent to his nomination as a probationer, produce such evidence as the Lieutenant-Governor in Council may think sufficient as to his age, health, and moral character; and every candidate for admission into the ordinary division shall further pass, before examiners appointed by the Lieutenant-Governor in Council, such examination, but without competition, as the Lieutenant-Governor in Council may direct. R. S. O. 1887, c. 14, s. 8.

Examination.

Appointment of a probationer.

9. Where any person has been conditionally employed upon probation in any office in the civil service, if, at the expiration of six months from the date of such employment, the head of the department in which the probationer has served shall recommend in writing the probationer as a suitable person to be appointed an officer of the civil service, the Lieutenant-Governor in Council may, if he thinks fit, then, but not before appoint such person. R. S. O. 1887, c. 14, s. 9.

10. Whenever it is expedient to secure for the public service on the occurrence of any vacancy, the services of some person of known ability, special attainments, and technical knowledge, and to place such person immediately in some of the higher classes of the civil service, although such person may not have been engaged in the civil service of this Province, the Lieutenant-Governor in Council, anything in this Act to the contrary notwithstanding, may appoint such person accordingly, and without either examination or probation. R.S.O. 1887, c. 14, s. 10.

Appointment in special cases without probation or examination.

11. Notwithstanding anything herein contained, any person who at any time has been or shall hereafter be employed in the civil service, and who has not been dismissed or called on to resign for improper conduct, may be appointed to any class in the same manner as if he had never left the service. R. S. O. 1887, c. 14, s. 11.

Appointment of former employees.

12. Where in the ordinary division any vacancy occurs in a superior class, if it be expedient to fill up the vacancy, the Lieutenant-Governor in Council, except as hereinafter provided, shall promote such clerk or officer in the class first below that in which the vacancy has occurred, as he shall judge the most deserving of promotion. R. S. O. 1887, c. 14, s. 12.

Promotion in ordinary division.

13. When in the special division a vacancy occurs, if it be expedient to fill up the vacancy, and the Lieutenant-Governor in Council be of opinion that there is any clerk or officer of lower rank in the department where the vacancy has occurred competent to discharge the duties of the office, he shall appoint such clerk or officer; but if in his opinion there be no such clerk or officer, then he may appoint such person as he thinks fit, although not previously engaged in the civil service, with or without examination or probation. R. S. O. 1887, c. 14, s. 13.

Promotion or appointment in special division, without examination or probation.

OFFICERS OR CHIEF CLERKS.

14. There may be in each department of the civil service one or more officers or chief clerks who shall receive such salaries respectively as may be fixed and determined by the Lieutenant-Governor in Council, and voted by the Legislature. R. S. O. 1887, c. 14, s. 14.

Chief clerks; their salaries.

15. If in any department there are any special duties requiring or assigned to an officer or chief clerk, an additional salary not exceeding \$400 per annum may be given by Order in Council to one or other first class clerks in the department, who shall have the rank of chief clerk, but the additional salary shall not become payable until the same shall be appropriated by the Legislature. R. S. O. 1887, c. 14, s. 15.

First-class clerks, additional salary.

Division of
departments.

16. The Lieutenant-Governor in Council may from time to time divide any department of the Public Service into as many branches or sub-departments as may appear most convenient for the public service, and one of the officers or first or second class clerks in such department may be appointed the chief clerk of such branch, and shall perform the duties assigned to him by the head of the department, and an additional salary not exceeding \$400 per annum may by Order in Council be paid to the person holding the position of chief clerk of such branch of said department, but the additional salary shall not become payable until the same is appropriated by the Legislature. R. S. O. 1887, c. 14, s. 16.

DEPUTY HEADS OF DEPARTMENTS.

Deputy heads
of Depart-
ments;
salaries.

17.—(1) The following officers shall be respectively the deputy heads of the Departments to which they are attached, and shall receive such salaries respectively as may be assigned to them by the Legislature:

The Deputy of the Attorney-General,
The Deputy of the Minister of Education,
The Assistant Commissioner of Crown Lands,
The Assistant Provincial Secretary,
The Assistant Commissioner of Public Works,
The Assistant Treasurer,
The Clerk of the Executive Council.
The Deputy of the Minister of Agriculture.

(2) The office of the Clerk of the Executive Council may be held by one of the other deputy heads.

Substitutes
for deputy
heads.

(3) In the absence of a deputy head, the head of the department may empower any officer or chief clerk thereof to perform the duties of such deputy head. R. S. O. 1887, c. 14, s. 17.
Order in Council of 4th of June. 1891.

Duties of
deputy heads.

18. It shall be the duty of the deputy head of each department, and he shall have authority, subject always to the head of the department, to oversee and direct the other officers, clerks, and servants of the department. He shall have the general control of the business of the department, and such other powers and duties as may be assigned to him by the Lieutenant-Governor in Council, and in the absence of the minister and during such absence, may suspend from his duties any officer, clerk, or servant of the department who refuses or neglects to obey his directions as such deputy. R. S. O. 1887, c. 14, s. 18.

GENERAL PROVISIONS.

19. The Lieutenant-Governor in Council shall from time to time determine the number of officers or chief clerks, and the officers and clerks of each class and of each division that are required for the working of the staff of each department, and shall classify the same according to the arrangements so determined, and the classification shall be submitted to the Legislature at its next Session thereafter; and after such classification has been submitted to the Legislature no first-class clerk and no officer or chief clerk in either division shall be appointed, nor shall any person be rated at any salary higher than the maximum of the first-class, except (1) upon a vacancy, or (2) upon the creation of an additional first-class clerkship or office or chief clerkship by special Order in Council, and upon the approval by the Legislature of the salary thereunto attached as a separate item in the estimates of the year in which such first-class clerkship or office or chief clerkship is created. R. S. O. 1887, c. 14, s. 19.

Lieut.-Governor in Council to determine number of chief clerks, etc., and classify.

20. No extra clerk shall, except under an Order in Council, be employed in any department unless for a period not exceeding three months, for which he may be paid at a rate not exceeding \$2 per diem out of the contingencies of the department on the certificate of the head or deputy head thereof, except only that if such extra clerk be an accountant, a book-keeper, or a person of special attainments and employed as such, he may be paid at a rate not exceeding the ordinary charge for such services;

Extra clerks, time of employment, salary, etc.

But any extra clerk may, under an Order in Council, made on the application and report of the head of the department that the same is requisite, be employed for a longer period than three months, and he shall, during such period, be borne on the pay-list of the department;

At the end of six months such extra clerk shall only be retained in the department as a probationary clerk, if nominated, examined and appointed as such in the manner required by this Act. R. S. O. 1887, c. 14, s. 20.

21. No allowance or compensation shall be made for any extra services whatsoever which any officer or clerk may be required to perform in the department to which he belongs. R. S. O. 1887, c. 14, s. 21.

No compensation for extra services.

22. Nothing in this Act shall prejudicially affect the salary or emolument of any officer or clerk in the civil service at the time of the passing of this Act so long as he shall be continued in office, nor shall anything herein contained affect any salary or emolument granted or fixed by any Act now, or which may hereafter be, in force. R. S. O. 1887, c. 14, s. 22.

Salaries of present clerks.

Power of dismissal of Lieutenant-Governor.

23. No provision herein contained shall impair the power of the Lieutenant-Governor to remove or dismiss any deputy head of a department, officer or clerk. R. S. O. 1887 c. 14, s. 23.

Aid of clerks from other Departments.

24. When the clerks of the staff of any department cannot with sufficient speed perform the duties required on any emergency, the deputy head of the department may require from the deputy heads of any other departments the temporary services of any clerks not then actively engaged in their own departments, but without additional remuneration. R. S. O. 1887, c. 14, s. 24.

Heads of Departments to report as to clerks.

25. Every head of the department shall furnish to the Lieutenant-Governor in Council at such times as the Lieutenant-Governor in Council may direct, reports upon the conduct and the efficiency of the officers and clerks employed in his department. R. S. O. 1887, c. 14, s. 25.

Leave of absence.

26. The head of every department may at such times as may be convenient, grant to every officer or clerk leave of absence for recreation for any period or periods not exceeding in the whole three weeks in each year, and may in cases of illness or other pressing necessity grant such extended leave not exceeding twelve months, and on such terms as the Lieutenant-Governor in Council may think fit. R. S. O. 1887, c. 14, s. 26.

Gratuity on leaving for ill health, etc.

27. When the services of an officer are hereafter dispensed with in consequence of a change in a department, or in consequence of the age and infirmity, or ill health of the officer, but not for any fault on the part of the officer, such gratuity may be allowed him as shall be directed by Order in Council, but not exceeding one month's pay for each year of his service; and in the event of the death of any clerk or officer while in the service of the Crown, the gratuity may be paid to his family. R. S. O. 1887, c. 14, s. 27.

Reduction to a lower class

28. The Lieutenant-Governor in Council may at any time on account of improper conduct or inefficiency, upon the report of the head of the department, order that any officer or clerk of one class be reduced to a lower class, and thereupon his salary shall be from the first day of the month next succeeding such order, reduced to such sum in such lower class as may be ordered, but he may at any time after be restored by order of the Lieutenant-Governor in Council to the status which he has lost, and his salary may be fixed, upon such restoration, at the sum to which he would have been entitled, except for such reduction. R. S. O. 1887, c. 14, s. 28.

Restoration.

Fine for misconduct.

29. If the head of the department wherein such officer or clerk is engaged, or in his absence his deputy, be of opinion, that the offence is not of so serious a nature, that a report thereof should

in the course of his duty, be made to the Lieutenant-Governor in Council, the head of the department, or, in his absence, his deputy, may for every such case of misconduct, order to be deducted by way of fine from the salary of such officer or clerk a sum not exceeding \$20. R. S. O. 1887, c. 14, s. 29.

30. The Lieutenant-Governor in Council may regulate the hours of attendance of the officers or clerks in any department; and when the public service demands, in case of pressure or urgency, that additional time be given, such additional time as the head or deputy head of any department may require, shall be given by all officers and clerks, without additional compensation. R. S. O. 1887, c. 14, s. 30.

31. The increase of salaries hereinbefore provided for shall not become payable until an appropriation therefor shall be made by the Legislature. R. S. O. 1887, c. 14, s. 31.

THE LAW COURTS.

32.—(1) This Act shall apply to the offices of the Master in Chambers, the Master in Ordinary of the Supreme Court, the Registrars of the Court of Appeal and of the High Court, the Clerk of the Crown and Pleas, the Accountant of the Supreme Court, the Surrogate Clerk, the Clerk of Records and Writs, the Clerk of the Process, and the Clerk in Chambers; but nothing in this Act contained shall prevent the appointment of a clerk or officer to any of the offices in this section mentioned in the first instance, or promotion otherwise than by this Act is provided, should the interests of the public service in the opinion of the Lieutenant-Governor in Council require the same.

(2) In so far as applicable, the word "department" in this Act and for the purpose of this Act shall extend to and include the offices of the Courts in this section mentioned; and the Attorney-General of the Province for the time being shall be the head thereof; and the chief officer of each of the said offices shall for the purpose of this Act have and possess the same powers and authority as the deputy head of a department, but nothing herein contained shall impair or interfere with the authority or control of the Courts and Judges over their officers. R. S. O. 1887, c. 14, s. 32.

EXAMINERS.

33. The Lieutenant-Governor in Council is hereby authorized from time to time and as occasion may require:

(a) To appoint suitable persons for the purpose of examining and investigating into and reporting upon the knowledge, ability and fitness of candidates who present themselves upon a nomination for office or employment in the Civil Service of Ontario;

Rules for
candidates.

(b) To make rules and regulations to be observed by candidates for employment in the Civil Service and to prescribe the subjects upon which the candidates shall be examined. R. S. O. 1887, c. 14, s. 33.

Examinations
and certifi-
cates.

34. It shall be the duty of the person or persons appointed as examiner or examiners, to examine the candidates who present themselves upon a nomination for office, as hereinbefore mentioned, and to grant certificates of qualification of candidates whose examination as to fitness and capacity and knowledge have been found satisfactory. R. S. O. 1887, c. 14, s. 34.

Rules for
carrying Act
into effect.

35. The Lieutenant-Governor in Council may make rules and regulations for carrying the provisions of this Act into effect, and for classifying the offices and clerkships in the public service. R. S. O. 1887, c. 14, s. 35.

OATHS OF OFFICE.

Oaths of office.

36. Every deputy head, officer, or chief clerk, or clerk, shall, before entering upon the duties of his office, take and subscribe before the Clerk of the Executive Council for Ontario, the Oath of Allegiance and the Solemn Declaration contained in the Schedule of this Act; and the Clerk of the Executive Council for Ontario shall keep a register of such oaths. R. S. O. 1887, c. 14, s. 36.

OFFICERS OF THE LEGISLATIVE ASSEMBLY.

Act to apply
to officers, etc.
of House of
Assembly.

37. This Act shall apply to the permanent officers and servants of the Legislative Assembly, saving always all legal rights and privileges of the House as respects the appointment or removal of its officers and servants, or any of them. R. S. O. 1887, c. 14, s. 37.

SCHEDULE.

(Section 36.)

Declaration.

"I (A. B.) solemnly and sincerely declare that I will faithfully and honestly fulfil the duties which devolve upon me as _____, and that I will not ask or receive any sum of money, service, or recompense, or matter, or thing whatsoever, directly or indirectly, in return for what I have done or may do in the discharge of any of the duties of my said office, except my salary or what may be allowed me by law or by an Order of the Lieutenant-Governor in Council."

R. S. O. 1887, c. 14, Sched.

CHAPTER 16

An Act respecting Public Officers.

COMMISSIONS CONTINUED ON DEMISE
OF THE CROWN, ss. 1, 2.

OATHS OF ALLEGIANCE, AND OFFICE,
ss. 3-7.

SACRAMENTAL TEST NOT REQUIRED AS
QUALIFICATION FOR OFFICE, s. 8.

SECURITY BY PUBLIC OFFICERS, ss.
9-27.

Nature of security, s. 9.

Liability of sureties, s. 9.

Record of bonds, ss. 10, 11.

Forfeiture of office for failure to
give security, s. 12.

New security to be given on death,
etc., of surety, s. 13.

Relief of surety desiring to with-
draw, s. 14.

Remission of penalties, s. 15.

Approval after time limited, s. 16.

Effect of delay in giving security,
s. 17.

Registration of securities execut-
ed at different times, s. 18.

Neglect, etc., not to vacate bond
s. 19.

Registration after time limited,
s. 20.

Act not to affect cases otherwise
provided for, ss. 21, 22.

STATEMENT OF BONDS TO BE MADE TO
LEGISLATIVE ASSEMBLY, s. 23.

GUARANTEE COMPANIES AS SECURITY,
s. 24.

SECURITY OF SHERIFFS, REGISTRARS,
AND DIVISION COURT CLERKS
AND BAILIFFS, s. 25.

AFFIDAVITS OF JUSTIFICATION, ETC.,
MAY BE MADE BEFORE A JUSTICE
OF THE PEACE, s. 26.

LIMITATION OF LIABILITY OF SURETIES
s. 27.

DUTIES OF INSPECTORS, s. 28.

RETURNS OF FEES, ETC., ss. 29, 30.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

COMMISSIONS ON DEMISE OF THE CROWN.

1.—(1) Upon the demise of the Crown, it shall not be neces-
sary to renew any commission, by virtue whereof any public
officer or functionary in this Province held his office or pro-
fession, during the previous reign, but a proclamation shall be
issued by the Lieutenant-Governor, authorizing all persons in
office who held commissions under the late Sovereign, and all
functionaries who exercised any profession by virtue of any
such commissions, to continue in the due exercise of their
respective duties, functions and professions, and such proclama-
tion shall suffice, and the incumbents shall, as soon thereafter as
may be, take the usual and customary oath of allegiance before
the proper officer or officers thereunto appointed.

Commissions
continued on
demise of the
Crown.

(2) The proclamation being issued and oath taken, every
public officer and functionary shall continue in the lawful
exercise of the duties and functions of his office or profes-
sion, as fully as if appointed *de novo* by commission derived
from the Sovereign for the time being; and all acts and things
bona fide done and performed by such incumbents in their
respective offices, and in the due and faithful performance of

their duties and functions, between the time of the demise and the proclamation so to be issued (the oath of allegiance being always duly taken), shall be deemed to be legally done and valid accordingly. R. S. O. 1887, c. 15, s. 1.

Saving as to rights of the Crown.

2. Nothing in the next preceding section shall prejudice or in anywise affect the rights or prerogatives of the Crown with respect to any office or appointment derived or held by authority from it, nor prejudice or affect the rights or prerogatives thereof in any other respect whatsoever. R. S. O. 1887, c. 15, s. 2.

OATHS OF ALLEGIANCE AND OFFICE, ETC.

No other oath but those hereinafter prescribed to be required of certain officers.

3. It shall not be necessary for any person appointed to any civil office in this Province, or any Mayor or other officer or member of any corporation therein, or for any person admitted, called or received as a Barrister, Notary Public, or Solicitor, to make any declaration or subscription, or to take or subscribe any other oath than the oath following, that is to say :

Oath of allegiance.

"I, A. B., do sincerely promise and swear, that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, (*or the reigning Sovereign for the time being,*) as lawful Sovereign of the United Kingdom of Great Britain and Ireland, and of this Province dependent on and belonging to the said Kingdom, and that I will defend Her to the utmost of my power against all traitorous conspiracies or attempts whatever which may be made against Her Person, Crown and Dignity, and that I will do my utmost endeavour to disclose and make known to Her Majesty, Her Heirs or Successors, all treasons or traitorous conspiracies and attempts which I may know to be against Her or any of them ;—And all this I do swear without any equivocation, mental evasion or secret reservation : So help me God."

Oath for faithful performance of duties.

and also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as may be required by any law in that behalf. R. S. O. 1887, c. 15, s. 3.

The said form of oath of allegiance and no other to be used in all cases.

4. The form hereinbefore set forth, and no other, shall be that of the oath of allegiance to be administered to and taken by every person in this Province who, either of his own accord or in compliance with any lawful requirement made on him or in obedience to the directions of any statute of the Legislature of this Province, desires to take an oath of allegiance. R. S. O. 1887, c. 15, s. 4.

Who may administer oath of allegiance.

5. All Magistrates and other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the oath of allegiance in any part of this Province. R. S. O. 1887, c. 15, s. 5.

Oath to be taken within the time by law provided.

6. The oath of allegiance hereinbefore set forth, together with the oath of office or oath for the due exercise of any profession or calling, shall be taken within the period, and in the manner, and subject to the disabilities and penalties for the omission thereof, by law provided with respect to such oaths, in all such cases respectively. R. S. O. 1887, c. 15, s. 6.

7. All persons allowed by law to affirm instead of swearing Affirmation instead of oath in certain cases.
 in civil cases in any part of this Province, shall be received to take an affirmation of allegiance in the like terms, *mutatis mutandis*, as the said oath of allegiance, and such affirmation of allegiance taken before the proper officer, shall in all cases be accepted from such persons in lieu of such oath; and shall as Its effect.
 to such affirmants have the like effect as the said oath of allegiance; and all Magistrates and other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the affirmation of allegiance in any part of this Province. R. S. O. 1887, c. 15, s. 7. By whom it may be administered.

SACRAMENTAL TEST NOT REQUIRED.

8. It shall not be necessary for any person, for the purpose No person need take the Sacrament as a qualification for any office.
 of qualifying himself to hold office in this Province, or for any other temporal purpose, privilege or advantage whatsoever within the same, to receive the Sacrament of the Lord's Supper according to the rites or usages of the Church of England, or to deliver a certificate or make proof of his having received the said Sacrament in manner aforesaid; and no person shall within this Province, be subject to any penalty, forfeiture, incapacity or disability whatsoever, for or by reason of his not having so taken or received the said Sacrament. R. S. O. 1887, c. 15, s. 8.

SECURITY BY PUBLIC OFFICERS.

9.—(1) Every person appointed to any civil office or employment, or commission in any public department of the Government of this Province, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of this Province, and who by reason thereof is required to give security, with a surety or sureties, or otherwise, shall, within one month after notice of his appointment, if he is then in Ontario, or within three months, if he is then absent from Ontario (unless he sooner arrives in Ontario, and then within one month after such arrival), give and enter into a bond or bonds, or other security or securities, in such sum, and with such sufficient surety or sureties as may be approved of by the Lieutenant-Governor, or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him, and for his duly accounting for all public moneys entrusted to him or placed under his control. Persons appointed to public offices to give security.

(2) Where a deputy is appointed by any person holding an office which is subject to the authority of this Legislature, any security required by law and hereafter given by such person, shall be construed to extend to and include the acts of the deputy, whether appointed before or subsequent to the giving of the security. The liability of the sureties, and of the officer appointing the deputy, shall be the same as regards the performance of the duties of the office by the deputy, as in Liability of sureties of public officer for acts of deputy.

regard to the performance thereof by the person holding the office wherein the deputy is appointed; and such liability shall extend to and cover all acts of the deputy while he continues to perform the duties of the office, and whether before or after the death or resignation of the person appointing him, subject to the same rights of withdrawal by the sureties from liability, as may from time to time exist in regard to the security given by public officers.

Deputy may be required to furnish security.

(3) The Lieutenant-Governor in Council may, notwithstanding the above provision, require any deputy to furnish new security on the death or resignation of the person holding the office wherein he is deputy, and such security shall be for the like amount, and subject to the same conditions, as that required by law for the due performance of the duties of the officer whom the deputy represents. R. S. O. 1887, c. 15, s. 9.

Affidavit of execution.

10.—(1) Every person who, by reason of his appointment to any civil office or employment, or commission in any public department, or of public trust, as aforesaid, or who, by reason of being concerned in the collection, receipt, disbursement or expenditure of public moneys, as aforesaid, gives or enters into a bond or other security for the due performance of the trust reposed in him, or for the due accounting for of public money entrusted to him, shall cause every such bond or security to be proved, as to the due execution thereof, by an affidavit of the attesting witness in the form of Schedule A annexed to this Act, made before a Justice of the Peace.

Affidavit of justification by sureties.

(2) Every surety in the bond, shall make an affidavit of justification in the form of Schedule B, hereto annexed, before a Justice of the Peace.

Bonds, how and where to be recorded and deposited.

(3) The person by or on whose behalf the bond or security is entered into or given, shall cause the same, with the said affidavits thereunto annexed, to be recorded at full length in the office of the Secretary and Registrar of this Province, in manner hereinafter mentioned, and shall, forthwith after registration, deposit the original bond or security, and the affidavits thereto annexed, in the office of the Treasurer of the Province.

Time within which bond to be recorded and deposited.

(4) Every bond or security, and the affidavits thereto annexed, shall be recorded and deposited, as aforesaid, within one month after being entered into or given, if the person or whose behalf it is entered into or given resides or is in Ontario; and if he is absent from Ontario, then within three months after being entered into or given, unless such person arrives sooner in Ontario, and then within one month after such arrival. R. S. O. 1887, c. 15, s. 10.

Entry of bond and certificate thereof.

11.—(1) The Secretary and Registrar of the Province shall make an entry, and shall, if required, give a certificate in writing under his hand of every bond or security brought to him to be registered as aforesaid, and therein shall mention the day on which the bond or security is so registered, expressing also in what book, page or number the same is recorded.

(2) For the purpose of so registering bonds or securities under this Act, the Secretary and Registrar shall provide a separate register book, every page of which, and every bond or security recorded therein, shall be numbered; and the day of the month and year when every such bond or security is registered shall be entered in the margin of the register book, and in the margin of the bond or security.

Separate book to be kept for the purpose.

(3) The Secretary and Registrar shall keep separate alphabetical lists of the names of the principals and of the names of the sureties mentioned in the bonds or securities, with reference to the book, page or number where the bonds or securities containing the names are to be found, and shall enter and register the bonds or securities in the same order of time in which they respectively come to his hands. R. S. O. 1887, c. 15, s. 11.

Alphabetical list of names of principals, etc.

12.—(1) If any person who, by reason of his appointment to or holding any civil office or employment, or commission in any public department, or of public trust as aforesaid, or who, by reason of being concerned in the collection, receipt, disbursement or expenditure of public money as aforesaid, is required or bound to give any security, or to register and deposit any bond or security as aforesaid, neglects to give such security, or to cause such bond or security to be duly registered and deposited in the manner and within the period in this Act prescribed, he shall be liable to forfeit the appointment, office, employment or commission, in respect whereof such security ought to have been given, and such bond or security, registered and deposited as aforesaid; and his appointment or commission shall be void from and after the time when the Lieutenant-Governor declares the same to be avoided under this Act; but such avoidance shall not annul or make void any act, order or other matter or thing done by such person during the time he actually held the appointment, office, employment or commission.

Commission may be declared avoided for non-compliance.

Avoidance not to annul acts done.

(2) No forfeiture shall take place by reason of any bond or security not being registered or deposited, where the proper sureties have been given and the proper bond made out, and when the failure to register or deposit has arisen from the loss of the bond or security in the transmission thereof from a distance; but in every such case a new bond or security, specifying the reason of such delay, shall be made out and signed, registered and deposited, within the like period after the person giving such security receives notice of the loss (regard being had to the place where he then is), as is required by this Act for the registry thereof if such loss had not occurred. R. S. O. 1887, c. 15, s. 12.

No forfeiture if delay caused by loss of bond.

13.—(1) Every person as aforesaid, who has given any bond or other security, with a surety or sureties for the due execution of the trust reposed in him or for duly accounting

Notice to be given of death, etc., of surety.

for public moneys coming to his hands, shall give notice in writing to the Secretary and Registrar of this Province, or to the principal officer or person of the department to which he belongs, of the death, bankruptcy, insolvency or residence out of this Province of any surety or person bound for or with him in such security.

Time for giving notice.

Penalty.

(2) The notice shall be given within one month after the fact comes to the knowledge of such person as aforesaid, if he then is or resides in this Province, or within three months if he is out of Ontario, unless he sooner arrives in Ontario, and then within one month after his arrival; and any person who neglects to give the notice within the period aforesaid shall forfeit to the use of Her Majesty one-fourth part of the sum for which the surety so dead, or bankrupt, or insolvent, or resident out of this Province became security, to be recovered in any Court of competent jurisdiction by action or information at the suit of the Crown.

Neglect to provide new surety punishable by forfeiture of office.

(3) Every person who, upon the death, bankruptcy, insolvency, or residence out of this Province of any surety, neglects to give the security of another surety, to be approved in like manner as the surety dying or becoming bankrupt, insolvent or resident out of this Province, was approved within such period from his having given notice of the death, bankruptcy or insolvency, or residence out of this Province, of the former surety as is by this Act limited for giving, registering and depositing the original security, or neglects to register and deposit the bond or security of the new surety, within such period from his having given the security of the new surety as is by this Act limited for the registering and depositing of the original bond or security (the same regard being had to the place in which the person may then be), shall be liable to forfeit the appointment, office, employment or commission, in respect whereof the new security ought to have been given, and the new bond or security registered and deposited as aforesaid; and his appointment or commission shall be void from and after the time when the Lieutenant-Governor declares the same to be avoided, in like manner, and under and subject to such provisions as aforesaid. R. S. O. 1887, c. 15, s. 13.

How sureties may relieve themselves from further responsibility.

14. Where any person has become surety to the Crown for the due accounting for public moneys, or the proper performance of any public duty by any such person as aforesaid, such surety, when no longer disposed to continue such responsibility, may give notice thereof to his principal, and also to the Secretary and Registrar of this Province; and all accruing responsibility on the part of such person as such surety shall cease at the expiration of three months from the receipt of the last of such notices, and the principal shall, within that period, give the security of another surety, and register and deposit the bond of the new surety, or, in default of so doing, shall be liable to forfeit and be deprived of the appointment, office,

employment or commission, in respect whereof the new security ought to have been given, and the new bond or security registered and deposited as aforesaid, and his appointment or commission shall be void from and after the time when the Lieutenant-Governor declares the same to be avoided, in like manner, and under and subject to such provisions as aforesaid. R. S. O. 1887, c. 15, s. 14.

15.—(1) The Lieutenant-Governor in Council may remit the forfeiture or penalty in any case in which the failure to give security, or to register and deposit any bond or security under this Act, has not arisen from the wilful neglect of the person bound to give, register or deposit the same.

Lieut.-Governor may remit penalty in certain cases;

(2) If it appears to the Lieutenant-Governor that the period hereinbefore limited for giving the security of a new surety as aforesaid is, in consequence of particular accidents, casualties or circumstances, insufficient, or that by reason of the distance or loss of letters, or illness, or the refusal of any surety to give the security, or of such surety not being deemed eligible and being rejected, or any other accident or casualty, further time will be necessary to enable the security of such new surety to be given, the Lieutenant-Governor in Council may allow such further period for giving the security of such new surety as appears to him reasonable and proper.

or may extend time for giving security, etc;

(3) But such extended period shall in no case exceed two months beyond the period allowed by this Act, and the precise period proposed to be allowed, together with the special grounds for allowing the same, shall be either entered in the book in which the original security has been registered, or endorsed on the back of the original bond or other security itself; and the person required to give the security of such new surety shall not be subject to any forfeiture or penalty for not giving the same within the time limited by this Act, if he gives it within the extended period so allowed as aforesaid. R. S. O. 1887, c. 15, s. 15.

But not more than two months, and an entry thereof must be made.

16. The Lieutenant-Governor may approve of the security given by any public officer or the affidavit of justification made by his sureties and filed by him, although the same has been given or filed after the time limited by this Act; and in such case the office or commission of such public officer shall be deemed not to have been avoided by such default, but to have remained and to remain in full force and effect. R. S. O. 1887, c. 15, s. 16.

Security may be approved, although given after time limited.

17. No act of any public officer of this Province whose security has been given, or registered, or deposited, or the affidavit of justification of whose sureties has been filed after the time limited by this Act, shall, by such default, be void or voidable. R. S. O. 1887, c. 15, s. 17.

Acts not void by delay in giving security, etc.

Securities
executed at
different
times, within
what time to
be registered.

18. Where the securities of the principal and sureties have been executed at different times (whether they were taken in one and the same bond, deed or other instrument, or in different ones), the period limited for registering and depositing such securities shall be estimated from the time of execution thereof by the person who was the last to execute the bond, deed or other instrument, or the last bond, deed or other instrument, as the case may be. R. S. O. 1887, c. 15, s. 18.

Neglect, etc.,
not to vacate
bond or dis-
charge surety.

19. No neglect, omission or irregularity in giving or receiving the bonds or other securities, or in registering the same within the periods or in the manner prescribed by this Act, shall vacate or make void any bond or security, or discharge any surety from the obligations thereof. R. S. O. 1887, c. 15, s. 19.

Proper officer
to register and
deposit bonds,
although time
expired, but
not to exempt
from penalty.

20. All bonds or other securities hereby required to be registered and deposited, shall be registered and deposited by the proper officer, notwithstanding the period prescribed for registering and depositing the same has expired; but no registering and depositing of any bond or other security shall be deemed to waive any forfeiture or penalty, or shall exempt the person on whose behalf the same are registered and deposited, from any forfeiture or penalty, under any of the provisions of this Act. R. S. O. 1887, c. 15, s. 20.

Not to affect
cases where
special pro-
vision made.

21. Nothing in any of the preceding sections of this Act shall apply to or affect any officer of any department, with respect to which special provision is made by law for the giving of security by its officers and the exacting of security from them, unless such special provision does not extend or apply to such officer. R. S. O. 1887, c. 15, s. 21.

Municipal
treasurers.

22. Nothing in the preceding sections of this Act shall be construed to apply to any Treasurer or other officer having the control or management of moneys levied and applied for municipal or local purposes. R. S. O. 1887, c. 15, s. 22.

Statement of
bonds to be
laid before
Legislature.

23. The Secretary and Registrar of this Province shall cause to be prepared for the information of the Legislative Assembly of this Province, within fifteen days after the opening of every Session thereof, a detailed statement of all bonds or securities registered as aforesaid in his office, and of any changes or entries that have been made in reference to the names and residences of any sureties, and of the amounts in which they have become severally liable, since the period of the previous return submitted to the Legislative Assembly. R. S. O. 1887, c. 15, s. 23.

Certain public
officers may
give security
of guarantee
companies.

24.—(1) Whenever a Sheriff, Registrar, Division Court Clerk or Bailiff, or other public officer, is required to give security for the performance of his duties, or other security of a like

nature, and whether such security enures for the benefit of the Crown or of any person injured by the default or misconduct of such officer, the Lieutenant-Governor in Council may, by Order in Council, direct that the bond or policy of guarantee of any incorporated or joint stock company empowered to grant guarantees, bonds, covenants or policies for the integrity and faithful accounting of public officers, or other like purposes, and named by such Order in Council, may be accepted as such security, upon such terms as may be determined by the Lieutenant-Governor in Council; and the provisions of law with reference to the legal effect of such securities when given by individuals, to the filing thereof, and to the mode of proceeding thereon, shall apply to the security given by every such company.

(2) The interim receipt of the company may be accepted in lieu of the formal security, but the formal security shall be completed within one month. R. S. O. 1887, c. 15, s. 24.

25. Every covenant hereafter entered into for or in behalf of a Sheriff, Registrar, Division Court Clerk or Bailiff aforesaid, in pursuance of any statute requiring security from any of such officers, or in pursuance of the preceding section, shall enure for the benefit of Her Majesty; and Her Majesty may bring and maintain an action thereon in respect of any damages suffered by Her Majesty or by the public on account of any misconduct, neglect or default of the officer in either instance, with the like effect as a private person suffering damages as aforesaid might, and may also sue in any other mode by which Her Majesty may sue upon a covenant. R. S. O. 1887, c. 15, s. 25.

Securities by
sheriffs,
registrars,
division
court clerks
and bailiffs,
and actions
thereon by
the Crown.

26. Where by an Act of the Legislature of this Province, any person appointed to any public office, or authorized to perform any official duties is required to give or enter into any bond or other security for the proper performance of his duties, any affidavit of qualification or justification required to be made by such person or by the sureties in any such bond, and any affidavit of the due execution of such bond or security, may be made before a Justice of the Peace, or before a Commissioner authorized to take affidavits to be used in the High Court. R. S. O. 1887, c. 15, s. 26.

Affidavits of
qualification
or justification
and of execu-
tion may be
made before a
justice of the
peace or com-
missioner.

27. Where any person, company or corporation is surety for the performance by a Sheriff, Registrar of Deeds, or Clerk or Bailiff of a Division Court or by any other public officer, or by any person appointed to any civil office, employment or commission in any public department in the Government of this Province or to any office or employment of public trust, whether the suretyship is for the benefit of Her Majesty or enures for the benefit of any person injured by the default or misconduct of such officer or other person, and any action is

Limitation as
to liability of
sureties of
public officers.

brought upon the bond, covenant or recognizance of suretyship no damages shall be recovered in the action against such surety except as to matters and causes of action which have arisen within ten years next before the commencement of the action. R. S. O. 1887, c. 15, s. 27.

DUTIES OF INSPECTORS.

Duties of one inspector may be discharged by another.

28.—(1) The Attorney-General may from time to time direct any Inspector to discharge the duties which are by statute or otherwise imposed upon any other Inspector, and an Inspector while acting under such direction shall have all the powers of the Inspector whose duty he has been directed to perform.

Inspector defined.

(2) In this section the word "Inspector" shall mean and include the Inspector of Legal Offices, the Inspector of Registry Offices, the Inspector of Prisons and Public Charities and the Inspector of Division Courts. 60 V. c. 14, s. 2.

RETURNS OF FEES.

Particulars in returns by public officers.

29. Every public officer of the Province, who is by this Act or any other Act required to make a return of the fees and emoluments of his office to any department of the Government, or to any officer, shall include in said return the following particulars :

1. The aggregate amount of the fees and emoluments earned by him during the preceding year by virtue of his office ;

2. The aggregate amount of all fees and emoluments actually received by him during the preceding year ;

3. The actual amount of the disbursements during the same period in connection with his office. R. S. O. 1887, c. 15, s. 28.

County court and division court clerks and registrars of surrogate court.

30. Every Clerk of a County Court and every Registrar of a Surrogate Court and every Clerk of a Division Court for a division embracing a city or part of a city, shall keep a separate book, in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, shewing the sums received by him for fees, charges and emoluments of all kinds whatsoever, and shall on the 15th day of January in each year make up to and including the 31st day of December of the previous year a return to the Lieutenant-Governor under oath, of such fees, charges and emoluments so received by him during the said year. R. S. O. 1887, c. 15, s. 29.

SCHEDULE A.

(Section 10.)

AFFIDAVIT OF EXECUTION.

County of _____ } I, *G. H.*, of the _____ of
 Province of Ontario. } in the County of _____
 } make oath and say as follows :—

1. I am the person whose name is subscribed to the annexed bond as the attesting witness (*or*, one of the attesting witnesses) to the execution thereof, and the signature _____ set and subscribed thereto as such attesting witness is of my proper handwriting, and my name and addition are correctly above set forth.

2. I was present and did see the said bond duly signed and executed by the several parties thereto (*or*, by *A. B.* and *C. D.* two of the parties executing the same, *or as the case may be*).

3. I am well acquainted with all the said parties (*or*, with the said *A. B.* and *C. D.*)

Sworn before me at _____
 in the County (*or* United Counties) }
 of _____, this _____ day } *G. H.*
 of _____, 18 _____

E. F.,
 J.P. for the County of _____ }
or Commissioner for taking affidavits, etc. }

R. S. O. 1887, c. 15, Sched. A.

SCHEDULE B.

(Section 10.)

AFFIDAVIT OF JUSTIFICATION.

County of _____, } I, *A. B.*, one of the sureties in the an-
 Province of Ontario. } nexed bond named, make oath and say as
 } follows :—

1. I am seised and possessed to my own use of real (*or*, real and personal) estate in the Province of Ontario, of the actual value of \$ _____ (*the amount for which the party has become liable on the bond*) over and above all charges and incumbrances affecting the same.

2. (*Where the party has real estate*). The said real estate consists of (*describing the property*).

3. I am worth \$ _____ (*the amount for which the party has become liable in the bond*) over and above my just debts.

4. My post office address is as follows : (*insert the name of the post office*.)

Sworn before me at _____
 in the County (*or* United Counties) }
 of _____, this _____ day } *A. B.*
 of _____, 18 _____

C. D.,
 J.P. for the County of _____ }
or Commissioner for taking affidavits, etc. }

R. S. O. 1887, c. 15, Sched. B.

CHAPTER 17.

An Act respecting the Office of Sheriff.

APPOINTMENT, s. 1.	BOOKS, ss. 44-46.
SHERIFFS OF YORK AND TORONTO, ss. 2-9.	QUARTERLY RETURNS OF FINES LEVIED, s. 47.
OATH, s. 10.	DUTY OF SHERIFFS AS REGARDS ASSIZES, s. 48.
SECURITY, ss. 11-32.	SHERIFF TO APPOINT CRIER AND CONSTABLE, s. 49.
SHERIFF FORFEITING OFFICE, TO ACT TILL A SUCCESSOR APPOINTED AND SWORN IN, s. 33.	RECOVERY OF FEES, ss. 50-52.
SHERIFFS, ETC., NOT TO TRADE, s. 34.	ON SHERIFF'S DEATH OR DISABILITY, WHO TO ACT, ss. 53-55.
SHERIFFS, ETC., NOT TO PURCHASE AT SALES UNDER EXECUTION, s. 35.	BOOKS, ETC., TO BE PROPERTY OF GOVERNMENT, s. 56.
MISCONDUCT OF BAILIFFS, CONSTABLES, ETC., ss. 36, 37.	PENALTY FOR NOT DELIVERING BOOKS TO SHERIFF'S SUCCESSOR, s. 57.
LIABILITY FOR ESCAPE, s. 38.	PROCEEDINGS ON APPOINTMENT OF NEW SHERIFF, s. 58.
FORFEITURE OF OFFICE FOR FALSE RETURNS, s. 39.	SHERIFF RESIGNING MAY INSPECT BOOKS, ETC., FORMERLY IN HIS POSSESSION, s. 59.
PROCEEDINGS ON RECEIPT OF WRIT, NON-SERVICE AND RE-DELIVERY, s. 40.	CONVEYANCES IN CASE OF DEATH, RESIGNATION OR REMOVAL, OF SHERIFF, s. 60.
FAILURE BY SHERIFF TO RE-DELIVER, s. 41.	CONTINUATION OF ACTIONS, s. 61.
CERTIFICATE AS TO EXECUTIONS, s. 42.	ALLOWANCES TO CERTAIN SHERIFFS, s. 62.
OFFICE HOURS, s. 43.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Appointment
of Sheriffs.

1. The Lieutenant-Governor shall from time to time, as occasion may require, by commission under the Great Seal of the Province appoint a fit and proper person to the office of Sheriff of each County, and shall in like manner fill up any vacancy occurring by the death, removal, resignation or forfeiture of office by a Sheriff; but every Sheriff shall hold office during pleasure only.

Separate
sheriffs for
York and City
of Toronto.

2.—(1) The Lieutenant-Governor may, in manner aforesaid, at any time hereafter, and from time to time, appoint one fit and proper person to be sheriff of the County of York, and another fit and proper person to be sheriff of the City of Toronto.

(a) In such case the Lieutenant-Governor in Council may define what duties with reference to Courts held jointly for the City and County, including any duties to be performed under *The Jurors' Act*, shall be performed by the sheriffs of the City and County respectively. Rev. Stat. c. 61.

(b) No act done by mistake by either of the said Sheriffs shall be held unlawful or invalid on the ground that the same should have been done by the other.

(2) Nothing in this section contained shall prevent the deputy of the late Sheriff of York, or the successor of such Sheriff, from proceeding upon and completing the execution or service within the City of Toronto of any writ of mesne or final process in the hands of such deputy, acting as Sheriff, or of the successor of the said Sheriff, on the 23rd day of April, 1887, or of any renewal thereof, or of any subsequent or supplemental writ in the same cause, or in case of executions against lands from executing all necessary deeds and conveyances relating to the same, and the act of such deputy or the successor of the said sheriff, shall be legal and valid in the same manner and to the same extent as if this section had not been passed, but no further. R. S. O. 1887, c. 16, s. 1.

(3) Nothing in this section contained shall be held to authorize the Sheriff of the County of York to execute within the City of Toronto any writ not in his hands on the 23rd day of March, 1888, unless such writ depends for its priority upon a former writ executed by the Sheriff of York or in his hands at the said time. 51 V. c. 6, s. 9. Execution of writs in City of Toronto.

3. The Sheriff of the County of York shall have no jurisdiction within the City of Toronto, save as provided by this Act. 51 V. c. 6, s. 1. Jurisdiction of Sheriff of York in City of Toronto.

4.—(1) The Sheriff of the County of York shall perform the duties pertaining to the office of Sheriff with reference to the following courts held in the City of Toronto, that is to say, the non-jury sittings of the High Court of Justice, the County Court of the County of York, the General Sessions of the Peace, and the County Judge's Criminal Court; and the Sheriff of the City of Toronto shall perform the duties pertaining to the office of Sheriff with reference to the Court of Appeal, the sittings of Divisional Courts of the High Court of Justice, the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, or the sittings of the High Court in Toronto when held elsewhere than at Osgoode Hall. 51 V. c. 6, s. 2; 59 V. c. 18, Sched. item 42, part. Division of duties, with reference to Courts, between Sheriffs of York and Toronto.

Rev. Stat.
c. 51.

(2) The said Sheriffs respectively shall be required to attend the sittings of the Court of Appeal, Divisional Court sittings, and sittings of the High Court for trials, as previous to *The Judicature Act* they attended the sittings of the Courts then constituting what is now the High Court, and shall be entitled to receive for attending such Sittings the same fees as are payable to Sheriffs for attending the Assizes. 59 V. c. 18, Sched. item 42, part.

[As to summoning jurors see Cap. 61, sec. 79.]

Fees and
allowance in
respect of ser-
vices connect-
ed with
Courts.

5. The Sheriff of the County of York shall in respect of Courts assigned to him be entitled to any fees or allowances which by statute or otherwise may be payable to Sheriffs in respect of services connected with said Courts, including the removal to the Provincial Penitentiary, or the Reformatory Prison, of any prisoners from time to time sentenced thereto respectively by any of the said Courts; and the Sheriff of the City of Toronto shall, in like manner, be entitled, in respect of the Courts hereinbefore assigned to him, to the like fees and allowances for services connected with the said several Courts. 51 V. c. 6, s. 4.

Control of
gaol.

6. So long as there is but one gaol for the City of Toronto and the County of York, the sheriff of the city shall have the control of the gaol. 51 V. c. 6, s. 5.

Fees of sheriff
of York in
respect of per-
sons commit-
ted to gaol.

7. The Sheriff of the County of York shall be entitled to the fees payable to sheriffs for services relating to any prisoners or lunatics committed from the County of York outside the City of Toronto, who may be from time to time confined in said gaol, or relating to any returns required to be made to the Inspector of Prisons and Public charities in respect of any such prisoners. 51 V. c. 6, s. 6.

Fees of sheriff
of Toronto in
respect of per-
sons commit-
ted to gaol.

8. The Sheriff of Toronto shall be entitled to the fees and allowances payable to sheriffs for services relating to the custody or control of the gaol, or of any city prisoners or lunatics confined therein, or relating to any returns required to be made in respect of the said gaol, or of any prisoners or lunatics confined therein, except as herein otherwise provided. 51 V. c. 6, s. 7.

Provision as
to executions,
if further
territory add-
ed to city of
Toronto.

9.—(1) In case any further portion of the County of York is at any time annexed to the City of Toronto, the Sheriff of the County of York (or his deputy for the time being, in case the office of sheriff is vacant) is forthwith to transmit to the Sheriff of Toronto a list of all writs of execution then in his hands not theretofore so transmitted, and shall in like manner transmit to the Sheriff of Toronto notice of the renewal of any such writ and of any subsequent or supplemental writ in the same cause.

(2) If the Sheriff of Toronto, upon a search being made in his office for executions against any person, finds that there is no execution in his office against such person, but that the name of such person is included in any list so transmitted to him by the Sheriff of York, he shall, upon request, give a certificate that there is no execution in his office against the person aforesaid, and for this certificate no fee shall, in such cases, be charged or payable. 51 V. c. 6, s. 8.

10. Every Sheriff, before he enters upon the duties of his office, shall take and subscribe the oath of allegiance, in the form given in section 3 of *The Act respecting Public Officers*, and also the oath of office in the form of Schedule A to this Act, and shall not be bound nor required to subscribe or take any other oath, nor make any other declaration or subscription, except as hereinafter provided; and every such oath respectively shall be filed in the office of the Clerk of the Peace for the county to which it relates. R. S. O. 1887, c. 16, s. 2.

Oaths to be taken on appointment. Rev. Stat. c. 16.

11. The Lieutenant-Governor in Council may, from time to time by Order in Council, fix and determine the amount of the security to be given by every Sheriff hereinafter mentioned; but such amount shall be in no case less than \$4,000, nor more than \$20,000 for the Sheriff, and not less than \$2,000, nor more than \$10,000 for each surety named in the covenant hereinafter mentioned, where there are two sureties, and not less than \$1,000, nor more than \$5,000 for each surety, where there are four sureties named in the said covenant. R. S. O. 1887, c. 16, s. 3.

Amount of security to be given

12.—(1) Subject to the provisions of section 24 of *The Act respecting Public Officers*, every Sheriff shall, before he is sworn into office, and within one month after his appointment, execute and enter into a joint and several covenant in duplicate, with two or four sureties, for such amounts respectively as may be fixed and determined by Order in Council in that behalf as aforesaid; the said duplicate covenant shall be in the form Schedule B to this Act, or to the like effect, and to each of the duplicate covenants respectively shall be attached an affidavit made by each of the covenantors therein named respectively, in the form of Schedule C to this Act, or to the like effect. R. S. O. 1887, c. 16, s. 4.

Security to be given by sheriffs. Rev. Stat. c. 16.

Form. Affidavit of sufficiency by each of the covenantors. Form.

(2) Where a Sheriff is unable to justify in the amount required to be named in the covenant, the Lieutenant-Governor in Council may accept such additional security as he considers requisite, and in that case the affidavit required by this section shall be varied as to such sheriff in accordance with the facts. 52 V. c. 10, s. 11.

Additional security in certain cases.

[As to justification by the Sheriff of a District, see "The Unorganized Territory Act," Cap. 109, sec. 30, and as to Guarantee Companies, see Cap. 16, sec. 24.]

Covenant to be filed with Clerk of the Peace.

13. One of the duplicate covenants, with the affidavits there-to attached, shall, within the periods hereinbefore limited respectively, be filed in the office of the Clerk of the Peace of the County, for which filing the Clerk shall be entitled to a fee of fifty cents, and the other duplicate covenant, with the affidavits attached to the same respectively, and an affidavit of the filing of such first-mentioned duplicate and affidavits in the office of the Clerk of the Peace as aforesaid, shall, within the same periods respectively, be transmitted to the office of the Provincial Secretary, and by him be submitted for the approval of the Lieutenant-Governor in Council. R. S. O. 1887, c. 16, s. 5.

Transmitted for approval of Lieutenant-Governor.

Proviso; in case of disapproval.

14.—(1) In case the covenant is approved of by the Lieutenant-Governor in Council, it shall be forthwith deposited in the office of the Treasurer of the Province, and notice of such approval shall be given to the Sheriff by the Provincial Secretary; but in case the covenant is disapproved of by the Lieutenant-Governor in Council, the Provincial Secretary shall forthwith give notice to the Sheriff of such disapproval, and in such case the Sheriff shall, within one month thereafter, furnish and transmit another covenant in lieu of the covenant so disapproved of as aforesaid, to the satisfaction of the Lieutenant-Governor in Council.

Sureties not discharged by non-approval.

(2) The sureties named in any covenant so disapproved of as aforesaid shall not be discharged from liability by such disapproval, but shall be and continue liable for any defaults or misfeasances made, done or committed previous to the approval by the Lieutenant-Governor in Council of any securities that may be furnished in lieu of the same. R. S. O. 1887, c. 16, s. 6.

Renewal of security.

15. The Lieutenant-Governor in Council may at any time require a Sheriff to renew his covenants or securities, or to furnish others in lieu of the same, as to him may appear expedient for the protection of the interests of the Crown or of parties to legal proceedings, which new or substituted covenants or securities the Sheriff shall be bound to transmit to the Provincial Secretary within three months after notice of the Order in Council in that behalf. R. S. O. 1887, c. 16, s. 7.

Form of renewed security.

16. Every renewed or substituted covenant or security shall be in the same form, and executed and accompanied by the same formalities and affidavits, and subject to the same approval as the original covenants or security. R. S. O. 1887, c. 16, s. 8.

Liability of former sureties in case of renewal.

17. In case a new security is given or substituted as aforesaid, the former sureties shall only be liable for or on account of defaults and misfeasances suffered or committed by the Sheriff previous to the perfecting of the new security and the

approval thereof by the Lieutenant-Governor in Council, and not as to any subsequent default or misfeasance. R. S. O. 1887, c. 16, s. 9.

18. In case a Sheriff has given the security and made the affidavit of justification required to be made under section 12 of this Act, but has subsequently to his appointment, on account of loss of property or of additional security being required, become unable to make an affidavit of justification in accordance with the provisions of section 16 of this Act, this Act shall not be construed as rendering necessary the dismissal of the Sheriff from his office, but he shall, under pain of forfeiture of his office, be required to furnish such additional security as the Lieutenant-Governor in Council may in consequence of such inability consider requisite. R. S. O. 1887, c. 16, s. 10.

Sheriff need not be dismissed for inability to justify as to security.

Further security may be given.

19. Every Sheriff shall give notice in writing, to the Inspector of Legal Offices, of the death, discharge, bankruptcy, insolvency, or residence out of the Province, of any surety or person bound with him in such security, within one month after the fact comes to his knowledge; and in every such case the Sheriff shall furnish the security of a new surety, to be approved of as aforesaid, in lieu of the surety so dying, being discharged, becoming bankrupt or insolvent, or residing without this Province, and shall complete and transmit to the Inspector the necessary covenants or security and affidavits in that behalf, within one month after such notice. R. S. O. 1887, c. 16, s. 11.

Death, insolvency, etc., of surety.

20. Any person who has become surety for a Sheriff, and who is no longer disposed to continue such responsibility, may give notice thereof to the Sheriff and to the Provincial Secretary, and in such case the Sheriff shall furnish the security of a new surety, in lieu of the surety so giving notice, and shall complete and transmit the necessary covenants or security and affidavits in that behalf to the Provincial Secretary, within one month after such notice; and all accruing responsibility on the part of the person giving such notice shall cease upon and after the perfecting and approval of the new security. R. S. O. 1887, c. 16, s. 12.

Surety may withdraw at any time.

21. Every Sheriff who neglects to give and furnish any of the securities, or to give any notice required by this Act, within the periods hereinbefore in that behalf respectively limited, shall be liable to forfeit his office, and his appointment and commission shall be void from and after the time when the Lieutenant-Governor declares the same to be avoided under this Act, but such avoidance shall not annul or make void any act or order or other matter or thing done by the Sheriff during the time he actually held office. R. S. O. 1887, c. 16, s. 13.

Forfeiture for neglect on part of a sheriff to furnish security.

When forfeiture may be remitted.

22. The Lieutenant-Governor in Council may remit the forfeiture in any case in which the failure to give the security or to perfect or transmit the instruments required by this Act, within the periods hereinbefore limited respectively in that behalf, has not arisen from the wilful neglect of the Sheriff, and if it appears to the Lieutenant-Governor that such respective periods are in any case insufficient in consequence of accident, casualty, loss of papers in the transmission thereof, illness or other particular circumstance, the Lieutenant-Governor in Council may allow such further period, not in any case exceeding two months, for perfecting and transmitting such securities, as to him may appear reasonable and proper. R. S. O. 1887, c. 16, s. 14.

When securities may be approved, although not perfected in time.

23. The Lieutenant-Governor may approve of any security or securities, although the same may not have been perfected and transmitted respectively within the time limited by this Act, and in such case the office or commission of the Sheriff shall not be deemed to have been avoided by such default, but to have remained in full force and effect; and the securities, when approved of as aforesaid, shall be held and construed to be valid and effectual, in the same manner and to the same extent as if they had been perfected and approved respectively within the time limited by this Act. R. S. O. 1887, c. 16, s. 15.

Neglect, omission, etc., in giving bonds not to avoid them.

24. No neglect, omission or irregularity in giving or renewing any covenant or security required by this Act, nor in observing the formalities hereinbefore prescribed, or any of them, shall vacate or make void any such covenant or security, or discharge any party or surety from the obligations thereof. R. S. O. 1887, c. 16, s. 16.

Addition to or diminution of territory to which bond relates, not to affect it.

25. No such covenant or security shall be in anywise impaired, discharged or avoided, nor shall any Sheriff or any surety named therein be released, exonerated or acquitted from the obligation assumed thereby, by reason of the addition to the original area of the county to which it relates, of any other territory, or by the separation therefrom of any portion of such original area, by legislative authority or otherwise. R. S. O. 1887, c. 16, s. 17.

Searching covenant and taking copies.

26. Any person may examine the covenant of the Sheriff and his sureties, and the clerk in possession thereof shall, on demand, deliver to any person who desires the same a copy thereof, on payment of the following fees:

For search and examination of covenant..\$0 25

For copy of covenant.....\$1 00

R. S. O. 1887, c. 16, s. 18.

Liability of sureties.

27. The said sureties shall be liable to indemnify the party or parties to any legal proceeding against any omission or default of the Sheriff in not paying over moneys received by him, and

against any damage sustained by such party or parties in consequence of the Sheriff's wilful or neglectful misconduct in his office, and the Sheriff shall be joint defendant in any action to be brought upon such covenant. R. S. O. 1887, c. 16, s. 19.

28. Any person sustaining damage by reason of such default or misconduct of a Sheriff may bring and maintain an action upon the covenant for such default or misconduct, and the action shall not be barred by reason of a prior recovery by the same party upon the same covenant, or of a judgment rendered for the defendant in a prior action upon the same covenant, or by reason of any other action being then depending upon the same, either at the suit of the same plaintiff or of any other party, for any other distinct cause of action. R. S. O. 1887, c. 16, s. 20.

Actions upon the covenant against Sheriff for misconduct, etc.

29. If upon the trial of an action upon such covenant or security it is made to appear that the plaintiff is entitled to recover, and that the amount which the surety has paid or become liable to pay, as hereinafter mentioned, is not equal to the full amount for which he became surety, the Court, after deducting from the full amount the sums which he has so paid or become liable to pay as aforesaid, shall render judgment against him for any sum not exceeding the balance of the sum for which he became surety. R. S. O. 1887, c. 16, s. 21.

Judgment against surety where liability discharged in part.

30. Where such surety actually and *bona fide* and of his own proper moneys and effects has paid or become liable by virtue of a judgment or judgments recovered against him upon his covenant to pay an amount equal to the amount specified on the covenant for which he became surety, the covenant shall as to him be deemed to be discharged and satisfied, and no other or further sum shall be recovered against him. R. S. O. 1887, c. 16, s. 22.

Sureties not liable for more than amount stated in the covenant.

31. It shall be competent for any Court of Record in Ontario, upon proof, to the satisfaction of the Court, of such payment or liability, in a summary manner and at any stage of the cause, by stay of proceedings or otherwise, to prevent the recovery against such surety of any further sum than the amount specified in his covenant, and for which he may have become surety. R. S. O. 1887, c. 16, s. 23.

On proof of payment proceedings may be stayed.

32. Upon every writ of execution under a judgment recovered on such covenant, the plaintiff or his solicitor shall, by an endorsement on the writ, direct the Coroner or other officer charged with the execution of such writ to levy the amount thereof upon the goods and chattels of the Sheriff in the first place, and in default of goods and chattels of the Sheriff to satisfy the amount, then to levy the same or the residue thereof of the goods and chattels of the other defendant or defend-

How the amount shall be levied.

ants in the writ, and so in like manner as to lands and tenements. R. S. O. 1887, c. 16, s. 24.

Sheriff forfeiting his office to act till his successor is appointed.

33. Notwithstanding a Sheriff may have forfeited his office and become liable to be removed therefrom by reason of his not having complied with the provisions of this Act, he shall nevertheless continue in his office to all intents and purposes, and the liability of himself and his sureties shall remain, until a new Sheriff has been appointed and sworn into office. R. S. O. 1887, c. 16, s. 25.

Sheriffs, etc., not to trade.

34. No Sheriff or Deputy Sheriff shall directly or indirectly keep a shop, or trade, or traffic, or sell or expose for sale, goods, wares or merchandise, either by wholesale or retail, or maintain an action for the price of any goods so sold, except only such as by the duties of his office he is legally commanded or empowered to sell. R. S. O. 1887, c. 16, s. 26.

Sheriff, etc., not to purchase at sales under execution.

35. No Sheriff, Deputy Sheriff, Bailiff or Constable, shall directly or indirectly purchase any goods or chattels, lands or tenements by him exposed to sale under execution. R. S. O. 1887, c. 16, s. 27.

Misconduct of bailiff or constable.

36. Every Bailiff or Constable entrusted with the execution of any writ, warrant or process, mesne or final, who wilfully misconducts himself in the execution of the same, or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the process may have issued, shall, upon conviction thereof before a Court of competent jurisdiction, be liable to fine and imprisonment in the discretion of the Court, and shall answer in damages to any party aggrieved by such misconduct or false return. R. S. O. 1887, c. 16, s. 28.

Damages.

Sections 35 and 36 to apply to coroners and elisors.

37. The preceding two sections of this Act shall extend and apply to Coroners and Elisors employed in the service or executing the process of the High Court, or of the County Courts. R. S. O. 1887, c. 16, s. 29.

Liability of sheriff, etc., for escape.

38. If a debtor in execution escapes out of legal custody the Sheriff, Bailiff, or other person having the custody of such debtor, shall be liable only to an action for damages sustained by the person or persons at whose suit such debtor was taken or imprisoned, and shall not be liable to any other action in consequence of his escape. R. S. O. 1887, c. 16, s. 30.

Forfeiture of office for false return.

39. A Sheriff who wilfully makes any false return upon a writ or warrant of execution directed to him and placed in his hands for execution, unless by consent of both parties to the same, shall be liable to forfeit his office. R. S. O. 1887, c. 16, s. 31.

40. Upon the delivery of a writ of summons at the office of a Sheriff, to be served by him, he, his Deputy, or Clerk, shall endorse thereon the time when it was so delivered; and in case the writ is not fully and completely served within ten days after the delivery, the plaintiff, his solicitor or agent shall be entitled to receive back the same; and the Sheriff, Deputy Sheriff or Clerk shall endorse thereon the time of the delivery; and the costs of the mileage and service of the writ by a literate person afterwards shall, in case the person to be served was at any time during the ten days within the County, be allowed in the taxation of costs, as if the service had been by the Sheriff or his officer. R. S. O. 1887, c. 16, s. 32.

Endorsement of receipt of process; non-service; re-delivery to plaintiff; costs of service.

41. If the Sheriff being applied to, neglects or refuses to return the writ, after the expiration of the ten days, the plaintiff may issue a duplicate or concurrent writ on the *præcipe* already filed, and the costs of the first or other writ not returned may be charged against and recovered from the Sheriff by the plaintiff or his solicitor. R. S. O. 1887, c. 16, s. 33.

Failure by Sheriff to re-deliver.

42.—(1) Where, for the purpose of investigating or establishing some title to land, a certificate respecting executions against lands is required from a Sheriff, the Sheriff if so requested, shall include in one certificate any number of names in respect of which the certificate may be required in the same matter or investigation. The Sheriff shall, in such certificate, include all certificates of proof of claims under *The Creditors Relief Act* which may be in his hands affecting the said lands. R. S. O. 1887, c. 16, s. 34 (1); 60 V. c. 3, s. 3.

Certificate as to executions.

(2) The maximum fees payable to a Sheriff in respect to such certificate shall be \$4. R. S. O. 1887, c. 16, s. 34 (2).

Office hours of sheriffs.

43.—(1) Every Sheriff shall, except upon legal holidays and during the Long Vacation, keep his office open every day from 10 o'clock in the forenoon until 4 o'clock in the afternoon, and during all that time he or his deputy or some clerk competent to do business for him, shall be present to transact the business of the office.

(2) During the Long Vacation every Sheriff or his deputy or clerk shall be required to be present in his office on every day, holidays excepted, from 10 o'clock in the forenoon until 1 o'clock in the afternoon and no longer.

In Long Vacation.

(3) Provided that the Sheriffs of the City of Toronto and of the County of York, or their respective deputies or clerks, shall be required to be present in their offices, for the transaction of business on every Saturday in the year, not being a holiday, from 10 o'clock in the forenoon until 1 o'clock in the afternoon and no longer.

Proviso as to Toronto and York.

(4) Provided that when the office of a Sheriff may be closed under this section at one o'clock in the afternoon the Sheriff or his deputy shall nevertheless upon application made to him,

Urgent business.

transact all necessary and urgent business of his office in the same manner and to the same extent as on days upon which the office must be kept open until 4 o'clock. 59 V. c. 4, s. 1; 60 V. c. 14, s. 89.

Certain books
to be kept in
Sheriff's office.

44. Every Sheriff shall keep in his office the following books, namely :

Process
Books.

1. Process Books—in which shall be entered a memorandum of every process other than writs of execution, or writs in the nature of writs of execution, received by the Sheriff, the Court out of which the same issued, the date of the receipt, the nature of the process, the names of the parties thereto, the solicitor by whom issued, the date of the return, and the nature of the return made thereto, or what was done thereunder or therewith respectively ;

Execution
Books.

2. Execution Books—in which shall be entered a memorandum of every writ of execution, or writ in the nature of a writ of execution, the Court out of which the same issued, the names of the parties thereto, the solicitor by whom issued, the date of return, and the nature of the return made thereto, or what was done thereunder or therewith ; and

Cash Book.

3. A Cash Book—in which shall be entered all cash received or paid away by the Sheriff in his official capacity, or in connection with his office, for any service whatever, for fees, poundage, service of process and papers, attendance at Courts, moneys levied under execution, or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment, the cause, matter or service in which, or on account of which, the same was received or paid away. R. S. O. 1887, c. 16, s. 36.

Sheriff to keep
an account of
his fees.

45. Every Sheriff shall keep a separate book, in which he shall enter from day to day, all fees and emoluments received by him, by virtue of his office, and also the several amounts disbursed by him, from day to day, for carrying on the work of his office ; and shall on or before the fifteenth day of January, in every year, make, to the Inspector of Legal Offices, a return, under oath, of the aggregate amount of such fees and emoluments and of his disbursements respectively, during the previous year, up to and inclusive of the thirty-first day of December. R. S. O. 1887, c. 16, s. 37.

Books to be
paid for by
county.

46. It shall be the duty of every Sheriff to supply himself with the books in the preceding two sections mentioned, and the cost thereof shall be paid by the county of which he is Sheriff. R. S. O. 1887, c. 16, s. 38.

Sheriff to
make quarterly
returns of
fines, etc.

47. Every Sheriff shall quarterly, and within twenty days after the expiration of each quarterly period, transmit to the Treasurer of the Province and to the Inspector of Legal Offices a just, true, and faithful account, to be veri-

fied upon oath, of all fines, penalties, and forfeitures which he has been required and commanded to levy and make by any lawful authority, and of the receipt and application of the same, or the reason why the same have not been received and applied; and every Sheriff shall pay over to the proper officer or person lawfully entitled to receive the same, the several sums collected by him, as aforesaid, within twenty days next after the period within which the same have been collected as aforesaid; and every Sheriff neglecting or refusing to transmit such quarterly account, or to pay over any such sum or sums of money so collected by him, within the period hereby prescribed, shall incur and be subject to the like penalty, and may be sued for the same in the same manner as is provided and declared with regard to Justices of the Peace neglecting or refusing to make the returns required by *The Act respecting Returns of Convictions and Fines by Justices of the Peace*. R. S. O. 1887, c. 16, s. 39.

and pay over moneys.
Penalty for neglect.
Rev. Stat. c. 93.

48. Every Sheriff shall execute and return before the Judge or Judges assigned to hold the Assizes or to execute any commission or to hold any Court of Assize and Nisi Prius, or of Oyer and Terminer and Gaol Delivery in his County, all precepts and writs of Nisi Prius and other jury process delivered to him or his Deputy, and shall give his attendance upon the Judge or Judges, as well for the returning of such "*tales de circumstantibus*" as may be prayed for the trial of issues, as for the maintenance of good order in Her Majesty's Courts, and for the doing and executing of all other things to the office of Sheriff in such case belonging. R. S. O. 1887, c. 16, s. 40.

Duty of sheriff as regards courts of nisi prius and attendance at assizes, etc.

SHERIFF TO APPOINT CONSTABLES AND CRIER.

49. The Sheriff shall have the appointment and control of the Court crier and of the constables at the sittings of the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery and of the High Court of Justice, the General Sessions of the Peace and other Courts at which the attendance of the Sheriff is required. 60 V. c. 14, s. 55.

Appointment of Court crier and constables

50. Before an action is commenced by a Sheriff for the recovery of a bill of costs, fees and expenses chargeable against a solicitor, and after the expiration of one month from the service of the bill, the Sheriff may serve the solicitor with a notice of an application to the High Court, or to a Judge of a County Court, returnable not earlier than eight days from the day of service, for payment of the amount of the bill; and the amounts claimed shall be stated in the notice. R. S. O. 1887, c. 16, s. 41; 56 V. c. 5, s. 14.

Sheriffs before action for fees may serve notice of application to the court for payment.

51. On the return of the notice, the Court or Judge may, without a reference, direct the payment to the Sheriff of the amount of his demand, or of any less amount, either without costs, or with costs to be fixed by an order or to be taxed; or the Court or a Judge may order the bill and the demand

Power of the court or judge and proceedings on return of the notice.

thereon to be taxed by the proper officer of any of the said Courts, and may direct that the officer shall tax to the party entitled thereto his costs of the reference, and may also direct that the Sheriff and the solicitor shall respectively pay what may be found due to the other upon the conclusion of the reference and taxation; and the Court or Judge making the reference shall restrain the bringing of any action pending the reference; and in case the order of reference does not make provision in this behalf, the officer named in the order of reference may, in his discretion, having regard to the matters in dispute between the parties and occasioning the costs, tax the costs of the order and reference, or any portion thereof, in favour of either party, or may disallow any part thereof. R. S. O. 1887, c. 16, s. 42.

Execution for
amount pay-
able.

52. The party entitled to payment may, at the expiration of eight days from the date of the order or of the certificate of the taxing officer, as the case may be, sue out a writ or writs of execution for the amount ordered or certified to be payable to him. R. S. O. 1887, c. 16, s. 43.

Deputy Sher-
riff to continue
office of Sheriff
in case of
death or
resignation.

53. In case a Sheriff dies, resigns his office and his resignation is accepted, or he is removed therefrom, the Deputy Sheriff by him appointed shall nevertheless continue the office of Sheriff and execute the same and all things belonging thereto in the name of the Sheriff so dying, resigning or being removed, until another Sheriff has been appointed and sworn into office; and the Deputy Sheriff shall be answerable for the execution of the office in all respects and to all intents and purposes whatsoever, during such interval as the Sheriff so dying, resigning or having been removed, would by law have been, if he had been living or had continued in office, and the security given to the Sheriff so deceased, resigning or being removed, by his Deputy Sheriff, and his pledges, as well as the security given by the said Sheriff under this Act, shall remain and be a security to the Queen, Her Heirs and Successors, and to all persons whatsoever, for the due and faithful performance of the duties of his office during such interval by the Deputy Sheriff. R. S. O. 1887, c. 16, s. 45.

Obligation of
sureties in
such cases.

Where vacan-
cies occur in
office of sheriff
and there is no
deputy,
crown at-
torney to act.

54. In the case of the death, resignation or removal of a Sheriff, if there is at the time no Deputy Sheriff, the Crown Attorney for the county or district, as the case may be, shall *ex-officio* be the Sheriff *pro tempore* until another person is appointed Sheriff, and the said Crown Attorney on becoming Sheriff *pro tempore* may appoint a Deputy Sheriff, and shall do and perform every other act, matter or thing necessary for the execution of such office. 58 V. c. 6, s. 1, part.

Temporary
officer to be
responsible.

55. The Sheriff *pro tempore* shall be answerable for the execution of the office in all respects and to all intents and purposes whatsoever, during such interval as the Sheriff so dying, resigning or having been removed, would by law have

been if he had been living or had continued in office, and any security since the 16th day of April, 1895, or hereafter given by a Sheriff so afterwards dying, resigning or being removed as aforesaid shall be a security to the Queen, her heirs and successors, and to all persons whatsoever, for the due and faithful performance of the duties of his office by the Sheriff *pro tempore*. 58 V. c. 6, s. 2, part.

56. All books, accounts, records, papers, writs, warrants, process, moneys and other matters and things in the possession or under the control of a Sheriff by virtue of, or appertaining to his office as Sheriff, shall be the property of the Government of this Province, and the same and every of them shall, immediately upon the resignation, removal from office, or death of a Sheriff, be, by the party in whose possession or control they may come of happen to be, handed over to and taken possession of by the successor in office of the Sheriff, or such person as the Lieutenant-Governor may appoint to receive the same. R. S. O. 1887, c. 16, s. 46.

57. No person, except the successor in office of the Sheriff so resigning, being removed, or dying, or the person so appointed by the Lieutenant-Governor as aforesaid, shall take have or hold any such books, accounts, records, papers, writs, warrants, process, moneys, or other matters or things; and any person having or holding any of the matters aforesaid shall forthwith on demand, deliver over the same and every of them to the succeeding Sheriff, or to the person so appointed as aforesaid; and, upon such person neglecting or refusing so to do, on conviction thereof before the Judge of the County Court of the County in which the offence occurs, he shall be liable to pay a penalty to and for the use of Her Majesty of not less than \$10, nor more than \$50, besides costs, for every day he so neglects or refuses: and in default of the payment of the penalty and costs, he shall be imprisoned in the Common Gaol of the County in which the conviction takes place, for a period not exceeding three months, or until the penalty and all costs have been fully paid. R. S. O. 1887, c. 16, s. 47.

All books, etc., to be the property of the Government.
No one but the succeeding sheriff to hold books, etc., on pain of fine and imprisonment.

Penalty.

58.—(1) Upon the removal of a Sheriff from his office or upon his resignation of the same, and upon the appointment of his successor, the outgoing Sheriff, or, in the event of the death of a Sheriff, the Deputy Sheriff shall forthwith make out and deliver to the new and incoming Sheriff a true and correct list and account, under his hand, of all prisoners in his custody, and of all writs and process in his hands not wholly executed by him, with all such particulars as shall be necessary to explain to the incoming Sheriff the several matters intended to be transferred to him, and shall thereupon hand over and transfer to the care and custody of the incoming Sheriff, all prisoners, writs and process, and all records, books and matters appertaining to the said office of Sheriff.

Proceedings on removal, etc., of sheriff.
Duty of outgoing sheriff.

Duty of incoming Sheriff.

(2) The incoming Sheriff shall thereupon sign and deliver a duplicate of the list and account to the Sheriff going out of office, or to the Deputy Sheriff where the previous Sheriff has died, to whom the same shall be a good and sufficient discharge of and from all the prisoners therein mentioned, and transferred to the incoming Sheriff, and from the further charge of the execution of the writs, process and other matters therein contained, without any writ of discharge or other writ whatsoever, and the incoming Sheriff shall thereupon stand and be charged with the prisoners, and also with the execution and care of the writs, process and other matters contained in the list and account, as fully and effectually as if the same writs and process had been handed over by indenture and schedule.

Penalty.

(3) In case an outgoing Sheriff, or, in the case of the death of the former Sheriff, a Deputy Sheriff refuses or neglects to make out, sign and deliver the list and account as aforesaid, and to hand over the process aforesaid in manner aforesaid, every Sheriff or Deputy Sheriff so neglecting and refusing shall be liable to make such satisfaction by damages and costs to the person aggrieved, as such person sustains by such neglect or refusal. R. S. O. 1887, c. 16, s. 48.

Sheriffs resigning, etc., may examine and inspect books, etc.

59. A Sheriff, after resigning his office, or being removed from office, or in case of the death of a Sheriff, his heirs, executors or administrators, shall or may, at any and at all time or times thereafter, have the right and be at liberty to have access to, search and examine into all accounts, books, papers, writs, warrants and process of whatever kind, and all other matters and things which were formerly in his possession before his resignation or removal, and which, at the time of making or requiring to make such search or examination, are in the possession or control of the succeeding Sheriff, or the then Sheriff of the County, free of all costs, charges and expenses. R. S. O. 1887, c. 16, s. 49.

Conveyances in case of death, etc., of sheriff, who has sold lands.

60. In case of the death, resignation or removal of a Sheriff, or of a Deputy Sheriff while there is no Sheriff, after he has made a sale of lands, but before he has made the deed of conveyance of the same to the purchaser, and whether the sale was under an execution or for arrears of taxes, the deed or conveyance shall be made to the purchaser by the Sheriff, or by the Deputy Sheriff who is in office acting as Sheriff as aforesaid, or by the Sheriff *pro tempore*, at the time when the deed or conveyance is made. R. S. O. 1887, c. 16, s. 50; 58 V. c. 6, s. 1, part.

Continuation of actions after death etc. of Sheriff.

61. In the event of the death, resignation, or removal from office of a Sheriff after action brought by him as Sheriff, the action shall not abate, but may be continued in the name of his successor, to whom the benefit of all sureties given to the Sheriff in his official capacity shall enure. R. S. O. 1887, c. 16, s. 51.

62. The Lieutenant-Governor in Council may direct and appoint that any Sheriff not paid, wholly or in part, by salary, and whose income from the fees and emoluments of his office, as the same appears by the returns to the Lieutenant-Governor, or to any department of the Government for the year 1881, after deducting necessary disbursements, does not exceed the sum of \$500, may be paid annually a sum not exceeding \$400 per annum; and that any other Sheriff whose income, as aforesaid, does not exceed \$800 may be paid a sum not exceeding \$200 per annum. When the returns of any Sheriff are for a part of the year only, then the return for the year 1880 shall be taken instead of that for the year 1881, for the purpose of determining whether the fees and emoluments exceed the said sum in this section mentioned. R. S. O. 1887, c. 16, s. 52.

Allowances to
certain
Sheriffs.

SCHEDULE A.

(Section 10.)

OATH OF OFFICE.

County (or, United Counties) }
of }
To wit :

I, A. B., of _____, in the County of _____, Esquire, having been appointed Sheriff of the County (or United Counties) of _____, do swear that I will well, truly and faithfully perform and execute all the duties required of me under the laws of this Province pertaining to the said office of Sheriff, so long as I continue therein, and that I have not given directly or indirectly, or authorized any person to give, any money, gratuity or reward whatsoever for procuring the said office for me.

A. B.

Sworn before me at _____, in the County }
of _____, the _____ day of _____ A.D. 18 _____ }
C. D.,

Judge of the County Court (or J. P. as the case may be) for the County
(or United Counties) of _____

R. S. O. 1887, c. 16, Sched. A.

SCHEDULE B.

(Section 12.)

FORM OF COVENANT.

Know all men by these presents, That we, A. B., Sheriff of the County (or United Counties) of _____, Esquire, C. D., of _____, in the County of _____, and E. F., of _____, in the County of _____ (when four sureties are given, the names of the other two to be inserted here in like manner), do hereby jointly and severally, for ourselves and for each of our heirs, executors and administrators, covenant and promise

CHAPTER 18.

An Act respecting the Fees of Certain Public Officers.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. For the purposes of this Act "net income" shall mean the excess of all fees and emoluments, including receipts in the current year whether on account of the earnings and salary of such year or of any former year or years after this Act goes into effect, by an officer by virtue of all his offices, after deducting the disbursements incident to the business of the office or offices held by him. 55 V. c. 17, s. 1.

Interpretation of "net income."

SHERIFFS, COUNTY ATTORNEYS, AND CLERKS OF THE PEACE.

2.—(1) Every Sheriff, County Crown Attorney (whether Clerk of the Peace or otherwise), and Clerk of the Peace, shall be entitled to retain to his own use in each year his net income up to \$2,000.

Sheriffs, county attorneys and clerks of the peace.

(2) Of the net income of each year he shall pay to the Provincial Treasurer the following percentages on the net income over \$2,000, namely:

Percentage payable to the Province.

(a) On the excess of \$2,000, not exceeding \$2,500, ten per cent. thereof;

(b) On the excess over \$2,500, not exceeding \$3,000, twenty per cent. thereof;

(c) On the excess over \$3,000, not exceeding \$3,500, thirty per cent. thereof;

(d) On the excess over \$3,500, fifty per cent. thereof. 57 V. c. 9, s. 1, part.

CERTAIN OFFICERS OF THE HIGH, COUNTY, AND SURROGATE COURTS.

3.—(1) Every Local Registrar of the High Court, Deputy Clerk of the Crown, County Court Clerk and Surrogate Registrar shall be entitled to retain to his own use in each year the aggregate net income from all the offices held by him up to \$1,500.

High Court and County Court fees.

(2) Of the net income of each year over \$1,500 he shall pay to the Provincial Treasurer the following percentages, namely:

Percentage payable to the Province.

(a) On the excess over \$1,500, not exceeding \$2,000, ten per cent. thereof ;

(b) On the excess over \$2,000, not exceeding \$2,500, twenty per cent. thereof ;

(c) On the excess over \$2,500, not exceeding \$3,000, thirty per cent. thereof.

(d) On the excess over \$3,000, fifty per cent. thereof. 57 V. c. 9, s. 1, part.

DIVISION COURT CLERKS.

Fees to be retained by Division Court Clerks for their own use.

4.—(1) Every Division Court Clerk shall be entitled to retain to his own use in each year all the fees and emoluments earned by him in that year up to \$1,000.

(2) Of the fees and emoluments earned by any Division Court Clerk in each year he shall pay to the Provincial Treasurer the following percentages :

(a) On the excess over \$1,000 and not exceeding \$1,500, ten per cent. ;

(b) On the excess over \$1,500, and not exceeding \$2,000, twenty per cent. ;

(c) On the excess over \$2,000, and not exceeding \$2,500, thirty per cent. ;

(d) On the excess over \$2,500, and not exceeding \$3,000, forty per cent. ;

(e) On the excess over \$3,000, fifty per cent. R. S. O. 1887, c. 51, s. 59.

Percentage division court fees payable to Province.

(3) Of the net income of each year over \$1,000 every Division Court Clerk shall pay to the Provincial Treasurer the following percentages, namely :

(a) On the excess over \$1,000, not exceeding \$1,500, ten per cent. thereof ;

(b) On the excess over \$1,500, not exceeding \$2,000, twenty per cent. thereof ;

(c) On the excess over \$2,000, not exceeding \$2,500, thirty per cent. thereof ;

(d) On the excess over \$2,500, fifty per cent. thereof. 57 V. c. 9, s. 1, part.

GENERAL PROVISIONS.

Returns to be made to Provincial Treasurer.

5. On the 15th day of January in each year every officer affected by this Act shall transmit to the Provincial Treasurer a return under oath of all his fees and emoluments (including his salary, if any), whether received in cash or not, and also the

disbursements incident to the business of the office or offices held by him, up to and including the 31st day of December of the previous year; and shall with such return transmit to the said Provincial Treasurer such portion of the fees and emoluments received by him during the preceding year as he is required under this Act to pay to the said Treasurer. R. S. O. 1887, c. 51, s. 60; 55 V. c. 17, s. 10.

6. The moneys referred to in the last preceding section when received shall belong to and form part of the Consolidated Revenue of the Province, and the fund derived therefrom shall be applied toward covering expenses of inspection, audits and other charges in carrying out the provisions of this and any other Act relating to the duties of the said officers. 55 V. c. 17, s. 11.

Application of moneys received by the Province.

7. Nothing herein contained shall be construed to apply to the fees or emoluments of any Sheriff received on account of services as returning officer under the election Acts of the Province of Ontario or of Canada. 55 V. c. 17, s. 12.

Fees of sheriffs as returning officers.

8. The Lieutenant-Governor in Council may make rules and regulations for the management of the offices of the said officers, and may, by such rules, confer on the inspectors thereof such powers as may be deemed necessary for carrying out the provisions of this and all other Acts relating to the duties of the said officers. All such rules and regulations shall be laid before the Legislative Assembly within the first ten days of the session next after the making thereof. 55 V. c. 17, s. 13.

Lieutenant-Governor may make rules for management of offices, and confer certain powers on inspectors.

9. The disbursements of the said officers shall be subject to the revision of the inspectors thereof respectively, and for the purposes of such revision an inspector shall have power to take evidence and examine witnesses under oath, 55 V. c. 17, s. 14.

Disbursements to be subject to revision of inspectors.

CHAPTER 19.

An Act respecting Inquiries concerning Public Matters.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Commissioners may be empowered to receive evidence on oath

1. Whenever the Lieutenant-Governor in Council deems it expedient to cause inquiry to be made into and concerning any matter connected with the good government of this Province, or the conduct of any part of the public business thereof, or the administration of justice therein, and such inquiry is not regulated by any special law, the Lieutenant-Governor may, by the commission in the case, confer upon the Commissioners or persons by whom such inquiry is to be conducted, the power of summoning before them any party or witnesses, and of requiring them to give evidence on oath, orally or in writing (or on solemn affirmation if they are parties entitled to affirm in civil matters), and to produce such documents and things as the Commissioners deem requisite to the full investigation of the matters into which they are appointed to examine. R. S. O. 1887, c. 17, s. 1.

Power to compel attendance of witnesses.

2. The Commissioner or Commissioners shall then have the same power to enforce the attendance of witnesses, and to compel them to give evidence and produce documents and things, as is vested in any Court in civil cases; but no party or witness shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution. R. S. O. 1887, c. 17, s. 2.

Proviso.

Act to apply to matters connected with elections, and to attempts to corrupt members of Legislative Assembly.

3.—(1) This Act shall be deemed to include for inquiry as aforesaid matters connected with elections to the Legislative Assembly, and the proceedings in any such election; but no commission shall issue except where no petition has been presented complaining of the return within the time prescribed, or except where, if a petition has been presented, the proceedings thereon have terminated.

(2) This Act shall be deemed to apply also to any attempts, or alleged attempts, to corrupt the successful candidate at such elections, or members of the Legislative Assembly, after their election, and notwithstanding that the persons

charged with such attempts may be liable to criminal prosecution in respect thereof, and notwithstanding that criminal proceedings against them may have been commenced or concluded. The commission may be issued authorising an inquiry into such attempts as aforesaid, and the commission need not minutely specify the particular matters of inquiry.

(3) The Legislative Assembly, upon the evidence taken under the commission being submitted to it, may take, under ^{Rev. Stat. c. 12.} section 57 of *The Act respecting the Legislative Assembly*, or under any other authority belonging to the Assembly, such action as the Legislative Assembly deems proper, as fully as if such evidence had been given at the Bar of the Assembly.

(4) No action shall be taken against any person so charged founded upon evidence given by any witness unless it appears that he had an opportunity of appearing before the Commissioner and cross-examining the witness either at the time that he was examined in chief or subsequently, and that he had also an opportunity of calling witnesses on his own behalf. R. S. O. 1887, c. 17, s. 3.

CHAPTER 20.

An Act respecting the Publication of Official Notices.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Advertisements required by law shall be inserted in the *Ontario Gazette* unless another mode is directed.

1. All advertisements, notices or publications, which, by any Act or law in force in this Province, are required to be given by the Provincial Government or any Department thereof, or by a Sheriff or other officer, or by any municipal authority, or by any officer, person or party whomsoever, shall be given in the *Ontario Gazette*, unless some other mode of giving the same is directed by law; and if in any Act in force in Ontario, of the late Province of Upper Canada, or of the late Province of Canada, and being within the legislative authority of the Legislature of this Province, any notice is directed to be given in the *Upper Canada Gazette* by authority, or in the *Canada Gazette*, the *Ontario Gazette* shall be understood to be intended. R. S. O. 1887, c. 18, s. 1.

Publication of legal and official advertisements.

2. Where Sheriffs' advertisements, and other legal and official advertisements (except lists of convictions by Justices of the Peace or other advertisements, the whole expense of which is payable by Counties), are required to be published in a newspaper other than the *Ontario Gazette*, they shall be published in such newspapers as the Lieutenant-Governor in Council from time to time directs. R. S. O. 1887, c. 18, s. 2.

Tenders to be made for publication of advertisements paid for by counties.

3. Tenders for the publication of the lists of convictions by Justices of the Peace and other legal and official advertisements the whole expense of which is payable by Counties, shall be publicly advertised for by the Council of the County, subject to such conditions, if any, as to circulation and other matters, as the Council may think just, and the contract shall be given to the newspaper making the lowest tender, on or subject to the said conditions, if any there be. R. S. O. 1887, c. 18, s. 3.

SECTION V.

PUBLIC DEPARTMENTS, REVENUE AND PROPERTY.

I. REVENUE AND FINANCE.

CHAPTER 21.

An Act respecting the Consolidated Revenue Fund and the Revenue derived from Legal Proceedings.

CONSOLIDATED REVENUE, HOW COM-
POSED, s. 1.
PERMANENT CHARGES, s. 2.
INVESTMENT OF SURPLUS, s. 3.

LAW FEES A SEPARATE FUND, s. 4.
SECURITIES IN NAME OF TREASURER,
ss. 5-7.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Upper Canada Grammar School Income Fund, and all moneys arising from investments made on account thereof, the income and revenue derived from the Upper Canada Grammar School Fund, the Upper Canada Grammar School Lands, the Upper Canada Building Fund, the Common School Fund and the Common School Lands, all moneys received under *The Revised Statute to provide for the final settlement of the Common School Fund*, and all other duties, revenue and moneys whatsoever, of the Province of Ontario, over which the Legislature of this Province has, or hereafter may have, the power of appropriation, except as provided in section 4, and in other cases where moneys have been by Act of the Legislature set apart as special funds, shall form one Consolidated Revenue Fund, to be called "The Consolidated Revenue Fund of Ontario," to be appropriated for the public service of this Province, in the manner and subject to the charges hereinafter mentioned, R. S. O. 1887, c. 19, s. 1; c. 30, s. 1; 57 V. c. 11, s. 4; 59 V. c. 18, s. 8.

Consolidated
Revenue Fund
of Ontario,
of what com-
posed.

Rev. Stat.
c. 35.

2. The Consolidated Revenue Fund shall be permanently charged with all the costs, charges and expenses incident to the collection, management and receipt thereof; such costs, charges and expenses being subject nevertheless to be reviewed and audited in the manner directed by any Act of the Legislature. R. S. O. 1887, c. 19, s. 2.

Permanent
charges.

Investment of
surplus.

3. The Lieutenant-Governor in Council may from time to time, in his discretion, invest any surplus of the Consolidated Revenue Fund not required for the public service, in the debentures or other public securities of the Dominion of Canada; and whenever the exigencies of the public service render it necessary or expedient to convert the same into money, shall sell and dispose of the same, first giving one month's notice of the intended sale in the *Official Gazette* of the Province of Ontario and of the Dominion of Canada, calling for tenders for the purchase of the stock or debentures in which the surplus is invested. R. S. O. 1887, c. 19, s. 3.

Revenue from
sale of law
stamps.

4. The fees payable to the Crown in stamps or otherwise in respect of proceedings in any of the Courts of this Province, are hereby set apart towards paying the expenses of the due administration of justice in the said courts, and shall not be applicable to any other purpose whatever. 59 V. c. 18, s. 8.

Securities,
etc., vested in
Treasurer of
Ontario by
virtue of his
office, to vest
in his suc-
cessors

5. Where any security, obligation, debenture or covenant, or any interest in real or personal estate, effects, or property is given, or transferred to, made with, or vested in the Treasurer of Ontario, by virtue of his office of Treasurer, such security, obligation, debenture or covenant, and any right of action in respect thereto, and all the estate, right or interest of the Treasurer in respect of such real or personal estate, effects or property, upon the death, resignation or removal from office of the Treasurer, from time to time, and as often as the case happens and the appointment of a successor takes place, shall, subject to the same trusts as the same were respectively subject to, vest in the succeeding Treasurer by virtue of this Act, and shall and may be proceeded on by action or in any other manner, or may be assigned, transferred or discharged, in the name of the succeeding Treasurer as the same might have been proceeded on, assigned, transferred or discharged by the Treasurer to, with or in whom they were first given transferred, made, or vested if he had continued to hold office. R. S. O. 1887, c. 19, s. 4.

Assignment,
etc., of securi-
ties.

6. Every security, obligation, debenture, covenant or interest in real or personal estate, effects and property may in like manner as in the last section mentioned be proceeded on, assigned, transferred or discharged by and in the name of any member of the Executive Council of Ontario, acting under the authority of section 3 of *The Act respecting the Executive Council*. R. S. O. 1887, c. 19, s. 5.

Rev. Stat. c. 14.

Application of
section 5.

7. Section 5 of this Act shall apply to every security, obligation, debenture or covenant, and every interest in real or personal estate, effects or property given or transferred to, made with, or vested in any former Treasurer of Ontario, by virtue or on account of his said office, and shall transfer all the interest, rights and estate of the former Treasurer to the present Treasurer of Ontario, to be vested in him by virtue of his office and subject to the provisions of this Act. R. S. O. 1887, c. 19, s. 6.

CHAPTER 22.

An Act respecting the Management of the Public Revenue, and Public Accountants.

REVENUE, s. 1.	Neglect to pay over moneys, ss. 16-19.
REVENUE OFFICERS, s. 2.	Loss of public money by malfeasance or gross neglect, s. 20.
COLLECTION OF THE REVENUE—	Unapplied public money to be returned to Treasurer, s. 21.
Officers, s. 3.	Penalties for taking or offering fees, s. 22.
Salaries to be in lieu of fees, s. 4.	Property in books, etc., s. 23.
Exemption of officers from certain duties, s. 5.	Other remedies of the Crown unimpaired, s. 24.
Oath of office, s. 6.	REMISSION OF DUTIES, TOLLS, ETC., ss. 25, 26.
Regulations, s. 7.	RECOVERY OF PENALTIES, s. 27.
Employment of officers, ss. 8, 9.	ADMINISTRATION OF OATHS, ss. 28, 29.
Office hours, holidays, ss. 10, 11.	
Statistics, s. 12.	
Mode of payment of public money, ss. 13, 14.	
LIABILITY OF REVENUE OFFICERS—	
Neglect to transmit accounts, s. 15.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In this Act the words "Provincial Revenue" or "Revenue" shall mean and include all Provincial Revenue and branches thereof, and all public moneys, whether arising from the Crown Lands or Timber, or from tolls for the use of any public works, or from penalties or forfeitures, or from any rents or dues, or any other source whatsoever, in so far as the collection, management and accounting for the same are respectively subject to the control of the Provincial Legislature. R. S. O. 1887, c. 20, s. 1.

2. Any officer, functionary or person whose duty it is to receive moneys forming part of the Revenue, or who is entrusted with the custody or expenditure of such moneys, although he may not be regularly employed in collecting, managing or accounting for the same, shall be subject to the

Interpretation.
"Provincial Revenue."
"Revenue."

Revenue Officers.

provisions of this Act, so far as regards the accounting for and paying over such moneys, whatever be the office or employment by virtue of which he may receive or be entrusted with the same, R. S. O. 1887, c. 20, s. 2.

COLLECTION AND MANAGEMENT OF THE REVENUE.

Lieut.-Governor in Council shall determine what officers are necessary, and fix their salaries.

3. The Lieutenant-Governor in Council may from time to time determine what officers or persons it is necessary to employ in collecting, managing or accounting for the Provincial Revenue, and in carrying into effect the laws thereunto relating, or for preventing any contravention of such laws, and may assign their names of office, and grant to such officers or persons as aforesaid such salaries or pay for their labour and responsibility in the execution of the duties of their respective offices and employments as to the said Lieutenant-Governor in Council seems reasonable and necessary, and may appoint the times and manner in which the same shall be paid. R. S. O. 1887, c. 20, s. 3.

Salaries to be in lieu of all other emoluments.

4. The salary or pay allowed to such officer or person as aforesaid shall be in lieu of all fees, allowances or emoluments of any kind whatsoever, except actual and authorized disbursements, shares of seizures, forfeitures and penalties; and no officer or person, receiving a salary at or exceeding the rate of \$1,000 per annum, shall exercise any other calling, profession, trade or employment whatsoever with a view to derive profit therefrom, directly or indirectly, or shall hold any other office of profit whatsoever, except it be an office relating to the management and collection of the Revenue and the accounting for the same, and held by such officer or person with the permission of the Lieutenant-Governor in Council. R. S. O. 1887, c. 20, s. 4.

Revenue officers exempted from certain duties.

5. No officer or person regularly employed in the collection or management of the Revenue, or in accounting for the same, shall, while he remains such officer or so employed, be compelled to serve in any other public office or in any municipal or local office, or on any jury or inquest. R. S. O. 1887, c. 20, s. 5.

Officers to take an oath of office.

6. Every person appointed to any office or employment relative to the collection or management of the Revenue, or in accounting for the same, shall, at his admission to such office or employment, take the following oath before such officer as the Lieutenant-Governor may appoint to receive the same, that is to say :—

"I, A. B., do swear to be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge by my appointment as _____, and that I will not require, take or receive any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description whatever, either directly or indirectly, for any service, act, duty, matter or thing done or performed or to be done or performed in the execution or discharge of any of the duties of my said office or employment, on any account whatever, other than my salary, or what shall be allowed me by law, or by order of the Lieutenant-Governor of this Province in Council ; So help me God."

The oath.

R. S. O. 1887, c. 20, s. 6.

7.—(1) The Lieutenant-Governor in Council may, from time to time, make all such new divisions of the Province into districts or otherwise as are required with regard to the collection or management of the Revenue, and may assign the officers or persons by whom any duty or service relative to such purpose shall be performed within or for such district or division, and the place or places within the same where such duty or service shall be performed—and may make all such regulations concerning such officers and persons, and the conduct and management of the business to them entrusted, as are consistent with the law, and as he deems expedient for carrying it into effect, in the manner best adapted to promote the public good.

Lieutenant-Governor in Council may divide Province into Revenue Divisions.

(2) Any general regulation or order made by the Lieutenant-Governor in Council, for any purpose whatever for which an order or regulation may be so made under the provisions of this Act, shall apply to each particular case within the intent and meaning of such general regulation or order, as fully and effectually as if the same had been made with reference to such particular case, and the officers, functionaries or parties concerned had been specially named therein.

General regulations, how to apply.

8.—(1) Every person employed on any duty or service relating to the collection or management of the Revenue, by the order or with the concurrence of the Lieutenant-Governor in Council, (whether previously or subsequently expressed), shall be deemed to be the proper officer for that duty or service; and every act, matter or thing required by any law in force to be done or performed by, to or with any particular officer nominated for that purpose in such law, being done or performed by, to or with any person appointed or authorized by the Lieutenant-Governor in Council to act for or in behalf of such particular officer, shall be deemed to be done or performed by, to or with such particular officer.

Persons employed with the concurrence of the Lieut.-Governor in Council to be deemed the proper officers.

(2) Every act, matter or thing required by law to be done at any particular place within any district or division of this Province as aforesaid, being done at any place within such

Place for performance of acts required by law.

district or division, appointed by the Lieutenant-Governor in Council for the purpose, shall be deemed to be done at the particular place so required. R. S. O. 1887, c. 20, s. 8.

Officers employed in one branch may be employed in another.

9. Any officer or person employed in the collection, management or accounting for any branch of the Revenue, may be employed in the collection, management or accounting for any other branch thereof, whenever it is deemed advantageous for the public service so to employ him. R. S. O. 1887, c. 20, s. 9.

Hours of office and seasons for certain business, how appointed.

10. The Lieutenant-Governor in Council may, from time to time, appoint the hours of general attendance of the officers and persons employed in the collection and management of the Revenue, at their proper offices and places of employment; and may also appoint the times during such hours, or the seasons of the year, at which any particular parts of the duties of such officers or other persons shall be performed by them respectively; and a notice of the hours of general attendance so appointed shall be kept constantly posted up in some conspicuous place in such offices or places of employment. R. S. O. 1887, c. 20, s. 10.

Offices may be closed on holidays.

11. No officer employed in the collection of the Provincial Revenue shall be required to keep his office open on any holiday. R. S. O. 1887, c. 20, s. 11.

Lieutenant-Governor in Council may direct accounts to be kept for statistical purposes.

12. The Lieutenant-Governor in Council may direct any officer or person employed in collecting, managing or accounting for any branch of the Provincial Revenue, to keep any books or accounts which he deems it advisable to direct to be kept for the purpose of obtaining statistical information concerning matters of public interest, and may authorize and allow any necessary expense incurred for the purpose. R. S. O. 1887, c. 20, s. 12.

Public money to be paid to credit of the Treasurer through banks, etc. Certificates to be taken.

13. All public moneys, from whatever source of Revenue derived, and all moneys forming part of special funds administered by the Provincial Government, shall be paid to the credit of the Treasurer of the Province, through such banks or persons as the Lieutenant-Governor in Council may from time to time direct and appoint; And certificates of such deposit, in duplicate, shall be taken by the persons making the same, and transmitted, one to the Treasurer, and the other to the Department to which the payment relates. R. S. O. 1887, c. 20, s. 13.

Lieutenant-Governor in Council to appoint the mode

14.—(1) The Lieutenant-Governor in Council may from time to time, appoint the times and mode in which any officer

or person employed in the collection, management or accounting for any part of the Revenue, shall account for and pay over the public moneys which come into his hands, to the officer appointed to receive the same, and may determine the times, manner and form in which, and the officer by whom any licenses on which any duty is payable, are to be issued.

and times in which moneys shall be accounted for and paid over.

(2) Such accounts and payments shall be rendered and made by such officers respectively at least once in every three months. R. S. O. 1887, c. 20, s. 14.

LIABILITY OF PUBLIC ACCOUNTANTS AND REVENUE OFFICERS.

15. If any corporation, officer or person refuses or neglects to transmit any account, statement or return, with the proper vouchers, to the officer or department to whom he is hereby required to transmit the same, on or before the day hereby appointed for the transmission thereof, such corporation, officer or person shall for such refusal or neglect forfeit and pay to the Crown, for the public uses of this Province, the sum of \$100, to be recovered with costs, as a debt due to the Crown, and in any Court and in any way in which debts to the Crown can be recovered; and in any action for the recovery of such sum, it shall be sufficient to prove, by any one witness or other evidence, that such account, statement or return ought to have been transmitted by the defendant, as alleged on the part of the Crown, and the onus of proving that the same was so transmitted shall rest upon the defendant. R. S. O. 1887, c. 20, s. 15.

Penalty for not transmitting accounts.

Proof in action for recovery of penalty.

16.—(1) Where the Provincial Treasurer has reason to believe that any officer or person has received money for the Crown, or for which he is accountable to the Crown, or has in his hands public money applicable to any purpose, and has not paid over or duly applied and accounted for the same, he may direct a notice to such officer or person, or to his representative in case of his death, requiring him within a time to be therein named, and not less than thirty nor more than sixty days from the service of the notice, to pay over, apply and account for such money to the Treasurer, or to the officer to be mentioned in the notice, and to transmit to him the proper vouchers that he has so done.

Notice to persons neglecting to pay over money received for public purposes.

(2) Such notice shall be served by the Sheriff of the District, or County where the service is made, or his Deputy, by delivering a copy to the officer or person to whom it is addressed, or leaving it for him at his usual place of abode; and the return of the Sheriff, with an affidavit of service, shall be conclusive evidence thereof. R. S. O. 1887, c. 20, s. 16.

Notice to be served by the Sheriff.

17. If any officer or person fails to pay over, apply or account for such money, and to transmit the vouchers as aforesaid within the time limited by the notice served on him,

Proceedings against persons refusing to comply with notice.

the Provincial Treasurer shall state an account as between such officer or person and the Crown in the matter to which the notice relates, charging interest from the service thereof, and shall deliver a copy thereof to the Attorney-General, and such copy shall be sufficient evidence to support any information or other proceeding for the recovery of the amount therein shewn to be in the hands of the defendant as a debt due to the Crown, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence; and the defendant shall be liable to the costs of the information or proceeding, whatever be the judgment therein, unless he proves that, before the time limited in the notice, he paid over or applied and duly accounted for the money therein mentioned, and transmitted the proper vouchers with the account, or unless he issued the same in a representative character, and is not personally liable for such money, or to render such account. R. S. O. 1887, c. 20, s. 17.

Liability of
defendant
to costs.

Proceedings
against persons
transmitting
accounts with-
out vouchers.

18.—(1) Where such officer or person as aforesaid has transmitted an account either before or after notice as aforesaid but without vouchers or with insufficient vouchers for any sum for which he therein takes credit, the Provincial Treasurer may notify such officer or person, in the manner mentioned in section 16 of this Act, to transmit vouchers, or sufficient vouchers within thirty days after the service of the notice; and if the vouchers are not transmitted within that time, the Treasurer may state an account against such officer or person disregarding the sums for which he has taken credit, but for which he has transmitted no vouchers or insufficient vouchers, and may deliver a copy of the account to the Attorney-General, and the copy shall be sufficient evidence to support an information or other proceeding for the recovery of the amount therein shewn to be in the hands of the defendant, saving to the defendant the right to plead and give in evidence all such matters as may be legal and proper for his defence; but the defendant shall be liable to the costs of the information or proceeding, whatever be the judgment therein, unless the vouchers by him transmitted within the time limited by the notice served on him, or before service, are found of themselves sufficient for his defence, and for his discharge from all sums demanded of him.

Defendant to
be liable to
costs.

Service of
notice, and
Sheriff's re-
turn, etc.

(2) The notice shall be served and the Sheriff's return of service shall be of the like effect as provided in section 16 with regard to the notice therein mentioned. R. S. O. 1887, c. 20, s. 18.

Moneys be-
longing to Her
Majesty, not
paid over.

19. If at any time it appears clearly, by the books or accounts kept by or in the office, or by any officer or person employed in the collection or management of the Revenue or in accounting for the same, or by his written acknowledgement or confession, that such officer or person has by virtue of his

office or employment received moneys belonging to Her Majesty, and amounting to a sum certain, which he has refused or neglected to pay over to the officer duly appointed to receive the same, and in the manner and at the time lawfully appointed, then upon affidavit of the facts, by any officer cognizant thereof, and thereunto authorized by the Lieutenant-Governor in Council, made before a Justice or Judge of any Court having jurisdiction in civil matters to the amount of the sum so ascertained as aforesaid, such Justice or Judge shall cause to be issued against and for the seizure and sale of the goods, chattels and lands of the officer or person so in default as aforesaid, such writ or writs as might have issued out of such Court, if the bond given by him had been put in suit and judgment had been thereupon obtained in favour of Her Majesty, for a like sum, and any delay by law allowed between judgment and execution had expired; and the writ or writs shall be executed by the Sheriff or other proper officer, and such sum as aforesaid shall be levied under them with costs, and all further proceedings shall be had, as if the judgment as aforesaid had been actually obtained. R. S. O. 1887, c. 20, s. 19.

Issue of execution.

20. If by reason of malfeasance, or gross carelessness or neglect of duty by any officer or person employed in the collection or management of the Revenue, or in collecting or receiving moneys belonging to the Crown, for the public uses of the Province, a sum of money is lost to the Crown, such officer or person shall be accountable for such sum as if he had collected and received the same, and it may be recovered from him on proof of such malfeasance, gross carelessness or neglect, in like manner as if he had so collected and received it. R. S. O. 1887, c. 20, s. 20.

Responsibility for losses arising from malfeasance or gross neglect, etc.

21. If any officer or person has received public money for the purpose of applying it to a specific purpose, and has not so applied it within the time or in the manner provided by law; or if any person having held any public office and having ceased to hold the same, has in his hands any public money received by him as such officer for the purpose of being applied to a specific purpose to which he has not so applied it,—such officer or person shall be deemed to have received such money for the Crown for the public uses of the Province, and may be notified by the Provincial Treasurer to pay such sum back to the said Treasurer, and the same may be recovered from him as a debt to the Crown, in any manner in which debts to the Crown may be recovered, and an equal sum may in the meantime be applied to the purpose to which such sum ought to have been applied. R. S. O. 1887, c. 20, s. 21.

Unapplied public money to be payable back to the Treasurer on demand.

Recovery, if not so paid.

22. If any officer or any person acting in any office or employment connected with the collection and management of the Revenue or the accounting for the same, takes or receives, directly or indirectly, any fee, perquisite, gratuity or reward,

No officer to take any fee, etc., on pain of dismissal.

Penalty on
persons offer-
ing fees etc.

whether pecuniary or of any other sort or description whatsoever, from any person (not being an officer or person legally authorized to pay or allow the same), on account of anything done by him in any way relating to his office or employment, except such as he receives by order or with the permission of the Lieutenant-Governor in Council,—every officer or person so offending shall, on proof to the satisfaction of the Lieutenant-Governor, be dismissed from his office or employment; And if any person (not being an officer duly authorized to pay or allow the same) gives, offers or promises any such fee, perquisite, gratuity, or reward, such person shall, for every such offence, incur a penalty of \$400, which penalty shall be recoverable in any Court having jurisdiction in civil cases to a like amount. R. S. O. 1887, c. 20, s. 22.

All books, etc.,
used in the
collection and
the manage-
ment of the
revenue to be
the property
of Her Ma-
jesty.

23. All books, papers, accounts and documents of what kind soever, and by whom and at whose cost soever the paper and materials thereof have been procured or furnished, kept by or used or received or taken into the possession of any officer or person employed or having been employed in the collection or management of the Revenue, or in accounting for the same, by virtue of his employment as such, shall be deemed to be chattels belonging to Her Majesty; and all moneys or valuable securities received or taken into his possession by virtue of his employment shall be deemed to be moneys and valuable securities belonging to Her Majesty. R. S. O. 1887, c. 20, s. 23.

Nothing in this
Act to impair
other remedies
of the Crown.

24. Nothing in this Act, nor any conviction for the contravention thereof, nor any conviction under any Statute of Canada, shall prevent, weaken or impair any remedy which the Crown has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown, for the public uses of the Province, and in the possession of any officer or person whomsoever, by virtue of any other Act or Law, nor any remedy which Her Majesty or any other party has against the offender or his sureties, or against any other party whomsoever; but the conviction of such offender shall not be received in evidence in any action against him. R. S. O. 1887, c. 20, s. 24.

REMITTING DUTIES, FORFEITURES, ETC.

Lieutenant-
Governor may
remit duties,
tolls, or
forfeitures.

25.—(1) And whereas it is expedient that the Executive Government should be empowered to relax the strictness of the laws relative to the collection of the Revenue, in cases where, without such relaxation, great public inconvenience or great hardship or injustice to individuals could not be avoided:—Therefore, the Lieutenant-Governor, whenever he deems it right and conducive to the public good, may remit any duty or toll payable to Her Majesty, imposed or authorized to be imposed by any Act of the Provincial Legislature, or any forfeiture or

pecuniary penalty imposed or authorized to be imposed by any such Act, for any contravention of the laws relating to the collection of the Revenue or to the management of any public work producing toll or revenue, although any part of such forfeiture or penalty be given by law to the informer or prosecutor, or to any other person;—And such remission may be made by any general regulation or by any special order in any particular case, and may be total or partial, unconditional or conditional; and if conditional, and the condition be not performed, the order made in the case shall be null and void, and all proceedings may be had and taken as if it had not been made.

Remission may be made by general regulation or special order.

(2) A detailed statement of all remissions as aforesaid shall be annually submitted to the Legislative Assembly within the first fifteen days of each ensuing Session thereof. R. S. O. 1887, c. 20, s. 25.

Detailed statements of remissions to be annually submitted to the Legislature.

26. If the Lieutenant-Governor directs that the whole or any part of any penalty imposed by any law relating to the Revenue be remitted or returned to the offender, such remission or return shall have the same effect as a pardon has in the case of a criminal offence, and the offence for which the penalty is incurred shall thereafter have no legal effect prejudicial to the party to whom the remission is granted. R. S. O. 1887, c. 20, s. 26.

If penalty be remitted, the remission to have the effect of a pardon.

27. Her Majesty's Attorney-General for Ontario, or other law officer, may sue for and recover in Her Majesty's name any penalty or forfeiture imposed by any law relating to the Revenue before any Court or other judicial authority before which such penalty or forfeiture is recoverable under such law, or may direct the discontinuance of any action for such penalty, by whom or in whose name soever the same has been brought—and in such case, the whole of the penalty or forfeiture shall belong to Her Majesty for the public uses of the Province, unless the Lieutenant-Governor in Council allows, as he may if he sees fit, any portion thereof to the seizing officer or other person by whose information or aid the penalty or forfeiture has been recovered. R. S. O. 1887, c. 20, s. 27.

Attorney-General may sue for and recover penalties.

Application of penalties.

EVIDENCE ON OATH.

28. In all cases wherein proof on oath or by affirmation or declaration is required by any law relating to the collection or management of the Revenue or to the accounting for the same, or is necessary for the satisfaction or consideration of the Lieutenant-Governor in Council in any matter relating to the collection or management of the Revenue or to the accounting for the same, and no person or officer is specially named as the officer or person before whom the same is to be made, it may be made before such officer or person as may be appointed by the Lieutenant-Governor to receive the same, and such officer

When an oath is necessary, it may be taken before officers appointed to receive same.

Affirmation
may be substituted
for oath.

or person shall administer the oath or affirmation, or receive the declaration; and in any case or class of cases, where an oath is required by this Act or by any law in force, in any matter relating to the collection or management of the Revenue or the accounting for the same, the Lieutenant-Governor in Council, if he deems fit, may authorize the substitution for the oath of a solemn affirmation or of a declaration, which shall then avail to all intents and purposes as the oath would have done. R. S. O. 1887, c. 20, s. 28.

Testimony to
be given on
oath in inquiries
touching
revenue
matters.

29. Upon all examinations and inquiries made by order of the Lieutenant-Governor in Council, for ascertaining the truth as to any fact relative to any matter concerning the collection or management of the Revenue, or the accounting for the same, or the conduct of officers or persons employed therein, and upon like examinations and inquiries made by any person or officer authorized by the Lieutenant-Governor in Council to make such examinations and inquiries, any person to be examined as a witness shall deliver his testimony on oath, to be administered to him by the officer or person making the examination or inquiry, who shall administer the same. R. S. O. 1887, c. 20, s. 29.

CHAPTER 23

An Act to provide for the better Auditing of the Public Accounts of the Province.

TREASURY BOARD, s. 1.	ALTERING DATE OF RETURNS, s. 15.
PROVINCIAL AUDITOR—	AUDIT BY DEPUTY HEADS, ETC., s. 16.
Appointment, s. 2.	EXAMINATION OF VOUCHERS, s. 17.
Tenure of office, s. 3.	APPROPRIATION LEDGER, s. 18.
Appointment of officers, s. 4.	DETERMINATION OF DIFFERENCES AS
Regulations for conducting business of office, s. 5.	TO CHARGES AGAINST APPROPRIATIONS, s. 19.
Duties, ss. 6-8.	PAYMENTS IN EXCESS OF APPROPRIATIONS, s. 20.
ISSUE OF CHEQUES WITHOUT CERTIFICATE OF AUDITOR, ss. 9, 10.	REPORTS BY AUDITOR, ss. 21-23.
CERTIFYING ACCOUNTS, s. 11.	ACCOUNTS WHICH ARE TO BE EXAMINED BY AUDITOR, ss. 24-26.
PREPARATION OF PUBLIC ACCOUNTS, s. 12.	AUDITOR MAY EXAMINE ON OATH, s. 27.
FINANCIAL YEAR, s. 13.	RECOVERY OF PUBLIC MONEYS, s. 28.
LOANS TO MEET FAILURE OF REVENUE FROM UNFORESEEN CAUSES, s. 14.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. For the purpose of reference and decision in regard to matters hereafter referred to it, a Treasury Board composed of three members of the Executive Council may be appointed by the Lieutenant-Governor, and the three members so appointed shall be the Treasury Board for the time being. R. S. O. 1887, c. 21, s. 1.
2. For the more complete examination of the Public Accounts of the Province, and for the reporting thereon to the Legislative Assembly, the Lieutenant-Governor may, under the great seal of the Province appoint an officer to be called the Provincial Auditor of the Province, and such officer may be paid out of the Consolidated Revenue Fund of the Province, a salary of \$2,400 per annum. R. S. O. 1887, c. 21, s. 2.
3. The Provincial Auditor shall hold office during good behaviour, but shall be removable for cause by the Lieutenant-Governor on address of the Legislative Assembly. R. S. O. 1887, c. 21, s. 3.
4. The Lieutenant-Governor in Council shall, from time to time, appoint any officer, clerk or other person to be employed in the office of the Provincial Auditor subject to the

Treasury Board.

Appointment of Provincial Auditor.

Tenure of office.

Appointment of officers.

provisions of any Act or Acts regulating the Civil Service of Ontario. R. S. O. 1887, c. 21, s. 4.

Regulations for conducting business of office, how made.

5. The Provincial Auditor shall have power to make, from time to time, orders and rules for the conduct of the internal business of his office, and to promote, suspend or remove any officer, clerk or other person employed therein, and to prescribe regulations and forms for the guidance of principal and sub-accountants in making up and rendering their accounts for examination: Provided always, that all rules, regulations and forms shall be approved by the Treasury Board previously to the issue thereof. The rules and regulations shall be laid before the House of Assembly within the first ten days of the Session next after the date when the same have been approved by the Treasury Board. R. S. O. 1887, c. 21, s. 5.

Cancelling debentures.

6. It shall be the duty of the Provincial Auditor and the Assistant Treasurer to examine and cancel debentures, or other Provincial securities, representing any debt of the Province, which have been redeemed. R. S. O. 1887, c. 21, s. 6.

Provincial Auditor to audit public accounts.

7. The Provincial Auditor shall examine, check, and audit all accounts of receipts and expenditure of public moneys, whether appertaining to the Province, or received or expended by the Province on account of or in trust for any other party or parties. R. S. O. 1887, c. 21, s. 7.

Provincial Auditor to see that money is not expended without or in excess of appropriation.

8. The Provincial Auditor shall, subject to the exceptions hereinafter provided for, see that no cheque issues for the payment of any public money, for which there is no direct legislative appropriation, or in excess of any portion of such appropriation the expenditure of which has been authorized by the Lieutenant-Governor in Council, and he shall report to the Lieutenant-Governor in Council through the Treasurer any case in which a department or sub-accountant has expended money out of the proceeds of any accountable warrant for any purpose for which there is no sufficient authority, or beyond the amount for which there is such authority. R. S. O. 1887, c. 21, s. 8.

When only cheques may issue without certificate of Provincial Auditor.

9. No cheque for public money shall issue except upon the certificate of the Provincial Auditor that there is legislative authority for the expenditure, save only in the following cases:—

1. If, upon an application for a cheque, the Provincial Auditor has reported that there is no legislative authority for issuing it, then upon the written opinion of the Attorney-General, or in his absence of the Deputy-Attorney General, that there is such authority, citing it, the Treasurer may authorize the Assistant Treasurer to prepare the cheque, irrespective of the Provincial Auditor's report;

2. If, when the Legislature is not in session an accident happens to any public work or building which requires an immediate outlay for the repair thereof, or any other occasion arises when an expenditure not foreseen or provided for by the Legislature is urgently and immediately required for the public good, then upon the report of the Treasurer that there is no legislative provision, and of the Minister having charge of the service in question that the necessity is urgent, the Lieutenant-Governor in Council may order a special warrant to be prepared, to be signed by the Lieutenant-Governor for the issue of the amount estimated to be required, which shall be placed by the Treasurer to a special account, against which cheques may issue from time to time in the usual form, as they may be required ;

3. In the absence of the Treasurer, or in the case of vacancy in the office of Treasurer, the Provincial Auditor is authorized to make the report ;

4. If the Provincial Auditor has refused to certify that a cheque of the Treasurer may issue, on the ground that the money is not justly due, or that it is in excess of the authority granted by Council, or for any reason other than that there is no legislative authority, then upon a report of the case prepared by the Provincial Auditor and the Treasurer, the Treasury Board shall be the judge of the sufficiency of the Provincial Auditor's objection, and may sustain him or in their discretion order the issue of the cheque ;

5. The Provincial Auditor shall countersign all cheques issued by the Treasurer, but before so countersigning he shall satisfy himself that the cheques are authorized under some one or other of the provisions of this section ;

6. The Provincial Auditor shall keep a cheque record-book with each bank upon which cheques are drawn, in which shall be entered all bank cheques countersigned by him, giving the date of issue, the name of the party to whose order payable and the amount ; and the Auditor shall initial the entry of each cheque countersigned by him, after satisfying himself that the entry is correct. R. S. O. 1887 c. 21, s. 9.

10. It shall be the duty of the Provincial Auditor in all such cases to prepare a statement of all such legal opinions, reports of Council, special warrants, and cheques issued without his certificate and of all expenditure incurred in consequence thereof, which statement he shall deliver to the Treasurer, to be by him presented to the Legislative Assembly at the same time as the Public Accounts are presented. R. S. O. 1887, c. 21, s. 10.

Statement by
Provincial
Auditor of
cheques, etc.,
issued without
his certificate.

11. No payment shall be authorized by the Provincial Auditor in respect of work performed, or materials supplied

Accounts for
work, etc., to
be certified by

officer in charge.

by any person in connection with any part of the public service of the Province, unless, in addition to any other voucher or certificate which may be required in that behalf, the officer, under whose special charge such part of the public service is, certifies that the work has been performed, or the materials supplied, as the case may be, and that the price charged is according to contract, or, if not covered by a contract, is fair and just. R. S. O. 1887 c. 21, s. 11.

Preparation of public accounts,

12. It shall be the duty of the Provincial Auditor to prepare and deliver to the Treasurer the Public Accounts to be annually laid before the Legislature. R. S. O. 1887, c. 21, s. 12.

Financial year.

13. The Public Accounts shall include the period from the first day of January to the thirty-first day of December in each year, which period shall constitute the financial year; all estimates submitted to the Legislature shall be for the services coming in course of payment during the financial year; and any sums appropriated by the Legislature for the services of the year, which may be unexpended on the thirty-first day of December, shall not be expended thereafter, except in the payment of accounts and expenses incurred on or prior to that day; and all balances of appropriations which remain unexpended after the twentieth day of January shall lapse and be written off. R. S. O. 1887, c. 21, s. 13.

Temporary loans to meet failure of revenue from unforeseen causes.

14. The Lieutenant-Governor in Council may also, from time to time, in case of exigency arising out of failure of the revenue from unforeseen causes, direct the Treasurer to effect any needed temporary loans, chargeable on the Consolidated Revenue Fund, in such manner and form, in such amounts, payable at such periods as the Lieutenant-Governor in Council may authorize; but such loans shall not exceed the amount of the deficiencies in the Consolidated Revenue Fund to meet the charges placed thereon by law, and shall not be applied to any other purposes whatever. R. S. O. 1887 c. 21, s. 14.

Treasury board may alter date of returns,

15. The Treasury Board may alter the period at or to which any accountant for public moneys, public officer, corporation or institution, is required to render any account or to make any return, whenever in their opinion the alteration will facilitate the correct preparation of the public accounts or estimates for the financial year, anything in any Act to the contrary notwithstanding. R. S. O. 1887, c. 21, s. 15.

Audit by deputy heads, etc.

16. The deputy heads of the several departments, or the officers, clerks or other persons charged with the expenditure of public moneys, shall respectively audit the details of the accounts of the several services in the first instance, and be responsible for the correctness of the audit. R. S. O. 1887, c. 21, s. 16.

17. In conducting the examination of the vouchers relating to the appropriation of the grants for the several services sanctioned by the Appropriation Act of the year, or by an Act of the Legislature, the Provincial Auditor shall test the accuracy of the castings and computations of the several items of the vouchers; but if he is satisfied that the accounts bear evidence that the vouchers have been completely checked, examined, and certified as correct in every respect, and that they have been allowed, and passed by the proper departmental officers, he may admit the same as satisfactory: Provided always, that if the Treasurer should desire any vouchers to be examined by the Provincial Auditor in greater detail, the Provincial Auditor shall cause such vouchers to be subjected to such a detailed examination as the Treasurer may think fit to prescribe. R. S. O. 1887 c. 21, s. 17.

Examination
of vouchers.

18. The Provincial Auditor shall keep an appropriation ledger, in which shall be entered the several supply grants comprised in the Appropriation Act for the year, against which shall be charged all authorized expenditure out of such appropriations. The Provincial Auditor shall furnish to each Department monthly a statement of the charges entered against the several appropriations belonging to such Department, and shewing the balance at the credit of the appropriation at the close of the month. Whenever an appropriation is exhausted, the Provincial Auditor shall at once notify the Department to which the appropriation belongs. The Provincial Auditor shall not sanction any further payments to be charged to such exhausted appropriation except as hereinafter provided. R. S. O. 1887, c. 21, s. 18.

Appropriation
ledger.

19. Should a difference arise between the Provincial Auditor and any Department respecting the appropriation to which an authorized expenditure should be charged, such difference may by the Department be referred to the Treasury Board, and the Board shall determine in what manner and to what appropriation or account such expenditure shall be charged. R. S. O. 1887, c. 21, s. 19.

Determina-
tion of differ-
ences as to
charges
against ap-
propriations.

20. In any case where an appropriation is exhausted and the public interest or the urgent requirements of the public service necessitate further payments in excess of the appropriation, the head of the Department to which the appropriation belongs, or his Deputy, shall transmit to the Provincial Auditor the accounts for which payment is asked, with a special report as to the necessity of payment and the reasons why the appropriation is insufficient. The Provincial Auditor shall submit the accounts and departmental report to the Treasury Board, with such remarks either approving or disapproving of the payment as he may consider necessary. If the Treasury Board approve of the payment of the accounts

Payments in
excess of ap-
propriations.

the Provincial Auditor, upon being notified of such approval, shall authorize the issue of cheques therefor. R. S. O. 1887, c. 21, s. 20.

Report of
over expendi-
ture.

21. The Provincial Auditor shall report to the Treasurer, for the information of the Legislative Assembly, all over-expenditures of appropriations as granted by the Appropriation Act, citing the recommendation and explanations of the Department and the authority of the Treasury Board. R. S. O. 1887, c. 21, s. 21.

Particulars
which are to
be mentioned
in report of
Provincial
Auditor.

22. In reporting as hereinbefore directed for the information of the Legislative Assembly the result of the examination of the appropriation accounts, the Provincial Auditor shall call attention to every case in which it may appear to him that a grant has been exceeded, or that money received by a Department from other sources than the grants for the year to which the account relates has not been applied or accounted for according to the directions of the Legislature, or that a sum charged against a grant is not supported by proof of payment, or that a payment so charged did not occur within the period of the account, or was for any other reason not properly chargeable against the grant. R. S. O. 1887, c. 21, s. 22.

Report by
Provincial
Auditor
to Legislative
Assembly.

23. If the Treasurer does not, at the time prescribed by this Act, present to the Legislative Assembly any report made by the Provincial Auditor on the appropriation accounts, or any other accounts, the Provincial Auditor shall forthwith present such report. R. S. O. 1887, c. 21, s. 23.

Accounts
which are to
be examined
by Provincial
Auditor.

24. Besides the appropriation accounts of the grants of the Legislature, the Provincial Auditor shall examine and audit, if required to do so by the Treasurer, and in accordance with any regulations that may be prescribed for his guidance in that behalf by the Treasury Board, the following accounts, viz: the accounts of all receipts of revenues forming the Consolidated Revenue Fund of the Province; the accounts current with the several banks and financial agents of the Province; the accounts relating to the issue or redemption of loans, and any other public accounts which, though not relating directly to the receipts or expenditure of the Province, the Treasury Board may direct. R. S. O. 1887, c. 21, s. 24.

Accounts to
be submitted
to Provincial
Auditor.

25. The accounts which, by the last preceding section, the Treasurer is empowered to subject to the examination of the Provincial Auditor, shall be rendered to him by the Departments or officers directed so to do by the Treasurer; and the term "Accountant" when used in this and the following sections of this Act with reference to such accounts, shall be taken to mean the Department or officer that may be so required by the Treasurer to render the same; and every public officer into whose hands public moneys, either in the nature of revenue or

fees of office, shall be paid by persons bound by law or regulation to do so, or by subordinate or other officers whose duty it may be to pay such moneys, wholly, or in part, into the account of the Treasurer, or to apply the same to any public service, shall, at such times and in such form as the Treasury Board shall determine, render an account of his receipts and payments to the Provincial Auditor; and it shall be the duty of the Clerk of the Executive Council to inform the Provincial Auditor of the appointment of every such officer. R. S. O. 1887, c. 21, s. 25.

26. In all cases where the Provincial Auditor is required by Approval of accounts. the Treasurer to examine and audit the accounts of the receipt, expenditure, sale, transfer, or delivery of any securities, stamps, Canadian or other Government stock or annuities, provisions, stores, or other property belonging to the Province, he shall, on the examination of such accounts being completed, transmit a statement thereof, or a report thereon, to the Treasurer, who shall, if he thinks fit, signify his approval of such accounts; and the Provincial Auditor on receipt of such approval shall thereupon transmit to the accountant a certificate in a form to be from time to time determined by the Provincial Auditor, which shall be to the accountant a valid and effectual discharge from so much as he may thereby appear to be discharged from. R. S. O. 1887, c. 21, s. 26.

27. The Provincial Auditor shall have full power and Provincial Auditor may examine on oath. authority to examine any person on oath or affirmation on any matter pertinent to any account submitted to him for audit; such oath or affirmation may be administered by him to any person whom he may desire to examine. R. S. O. 1887, c. 21, s. 27.

28. Every accountant, on the termination of his charge Recovery of balances of public money in hands of accountants. as accountant, or in the case of a deceased accountant his representatives, shall forthwith pay over any balance of public money then due to the Crown in respect of such charge to the public officer authorized to receive the same; and in all cases in which it shall appear to the Provincial Auditor that balances of public money have been improperly and unnecessarily retained by an accountant, he shall report the circumstances of such cases to the Treasurer, who shall take such measures as to him may seem expedient for the recovery by legal process, or by other lawful ways and means, of the amount of such balance or balances, together with interest, upon the whole or on such part of such balance or balances, for such period of time, and at such rate as to the Treasurer may appear just and reasonable. R. S. O. 1887, c. 21, s. 28.

CHAPTER 24.

An Act to provide for the payment of Succession Duties in certain cases.

SHORT TITLE, s. 1.	EXECUTORS, ETC., TO DEDUCT DUTY
INTERPRETATION, "PROPERTY," s. 2.	OR MAY SELL TO ENABLE PAYMENT,
PROPERTY LIABLE TO DUTY, ss. 3, 4.	ss. 14-16.
INVENTORY BY EXECUTORS, s. 5.	REFUND IN CERTAIN CASES, s. 17.
APPRAISEMENT, ss. 6-8.	ENFORCING PAYMENT, s. 18.
APPEAL, s. 9.	COSTS, s. 19.
WHEN BEQUEST TO EXECUTOR SUB-	LIMITATION OF ACTIONS FOR, s. 20.
JECT TO DUTY, s. 10.	FEES OF OFFICERS, s. 21.
WHEN DUTY BECOMES PAYABLE, ss.	REGULATIONS UNDER ACT. s. 22.
11-13.	

Preamble.

WHEREAS this Province expends very large sums annually for asylums for the insane and idiots, and for institutions for the blind and for deaf mutes, and towards the support of hospitals and other charities, and it is expedient to provide a fund for defraying part of the said expenditure by a succession duty on certain estates of persons dying as hereinafter mentioned;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title and
time of opera-
tion of Act.

1. This Act may be cited as "*The Succession Duty Act*," and shall apply to the estates of persons dying on or after the 1st day of July, 1892, unless where it is herein otherwise expressly provided. 55 V. c. 6, s. 1.

"Property"
meaning of

2. The word "property" in this act includes real and personal property of every description, and every estate or interest therein capable of being devised or bequeathed by will or of passing on the death of the owner to his heirs or personal representatives. 55 V. c. 6, s. 2.

When Act
shall not
apply.

3. This Act shall not apply:—

1. To any estate the value of which, after payment of all debts and expenses of administration, does not exceed \$10,000; nor

2. To property given, devised or bequeathed for religious charitable or educational purposes ; nor

3. To property passing under a will, intestacy or otherwise, to or for the use of the father, mother, husband, wife, child, grandchild, daughter-in-law or son-in-law of the deceased, where the aggregate value of the property of the deceased does not exceed \$100,000 in value. 55 V. c. 6, s. 3.

4.—(1) Save as aforesaid, the following property shall be subject to a succession duty as hereinafter provided, to be paid for the use of the Province over and above the fees payable under *The Surrogate Courts Act* ;

Property liable to succession duty.
Rev. Stat. c. 59.

(a) All property situate within this Province, and any interest therein or income therefrom, whether the deceased person owning or entitled thereto was domiciled in Ontario at the time of his death or was domiciled elsewhere, passing either by will or intestacy ;

Property situate in province.

(b) All property situate as aforesaid or any interest therein or income therefrom, which shall be voluntarily transferred by deed, grant, bargain, sale or gift made in contemplation of the death of the grantor, bargainor, vendor or donor, or made or intended to take effect, in possession or enjoyment after such death, to any person in trust or otherwise, or by reason whereof any person shall become beneficially entitled in possession or expectancy to any property, or the income thereof ;

Property voluntarily transferred in contemplation of death.

(c) Any property taken as a *donatio mortis causa* made by any person dying on or after the 7th day of April, 1896, or taken under a disposition made by any person so dying, purporting to operate as an immediate gift *inter vivos*, whether by way of transfer, delivery, declaration of trust, or otherwise, which shall not have been *bona fide* made twelve months before the death of the deceased, including property taken under any gift, whenever made, of which property *bona fide* possession and enjoyment shall not have been assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the donor, or of any benefit to him by contract or otherwise ;

Donationes mortis causa or voluntary dispositions made within twelve months before death, etc.

(d) Any property which a person dying on or after the 7th day of April, 1896, having been absolutely entitled thereto, has caused, or may cause to be transferred to, or vested in himself, and any other person jointly, whether by disposition or otherwise, so that the beneficial interest therein, or in some part

Property transferred by owner to himself jointly with some other person.

thereof, passes or accrues by survivorship on his death to such other person, including also any purchase or investment effected by the person who was absolutely entitled to the property either by himself alone, or in concert, or by arrangement with any other person;

Property passing under settlement.

(e) Any property passing under any past or future settlement, including any trust, whether expressed in writing or otherwise, and if contained in a deed or other instrument effecting the settlement, whether such deed or other instrument was made for valuable consideration or not as between the settlor and any other person, made by any person dying on or after the 7th day of April, 1896, by deed or other instrument not taking effect as a will, whereby an interest in such property or the proceeds of sale thereof for life, or any other period, determinable by reference to death, is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself, the right by the exercise of any power to restore to himself, or to reclaim the absolute interest in such property or the proceeds of sale thereof, or to otherwise resettle the same or any part thereof ;

Annuities, etc.

(f) Any annuity or other interest purchased or provided by any person dying on or after the 7th day of April, 1896, either by himself alone or in concert or by arrangement with any other person, to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased.

Particular description of property liable not to affect general words.

(2) The descriptions of properties in clauses (c), (d), (e) and (f), shall not be construed to restrict the generality of the descriptions contained in clauses (a) and (b), and subject to the provisions of subsection 8 of this section, the expressions "all property" and "any property" in this section shall be restricted to property situate within this Province.

Amount of duty.

(3) Where the aggregate value of the property of the deceased exceeds \$100,000, and passes in manner aforesaid, either in whole or in part, to or for the benefit of the father, mother, husband, wife, child, grandchild, or other lineal descendant or daughter-in-law or son-in-law of the deceased, the same or so much thereof as so passes (as the case may be) shall be subject to a duty of \$2.50 for every \$100 of the value.

(4) Where the aggregate value of the property exceeds \$200,000, the whole property which passes as aforesaid shall be subject to a duty of \$5 for every \$100 of the value.

(5) Where the value of the property of the deceased exceeds \$10,000 so much thereof as passes to or for the benefit of the grandfather or grandmother or any other lineal ancestor of the deceased, except the father and mother, or to any brother or sister of the deceased, or to any descendants of such brother or sister, or to a brother or sister of the father or mother of the deceased, or of any descendant of such last mentioned brother or sister, shall be subject to a duty of \$5 for every \$100 of the value.

(6) Where the value of the property of the deceased exceeds \$10,000 and any part thereof passes to or for the benefit of any person in any other degree of collateral consanguinity to the deceased than is above described, or to or for the benefit of any stranger in blood to the deceased, save as hereinbefore provided for, the same shall be subject to a duty of \$10 for \$100 of the value.

(7) Provided that where the whole value of any property devised, bequeathed or passing to any one person under a will or intestacy does not exceed \$200, the same shall be exempt from payment of the duty imposed by this section. Proviso.

(8) Provided also that any portion of the estate of any deceased person, whether at the time of his death such person was domiciled in the Province of Ontario or was domiciled elsewhere, which is brought into the Province by the executors or administrators of the estate to be administered or distributed in this Province shall be liable to the duty hereinbefore imposed; but if any succession or legacy duty or tax has been paid upon such property elsewhere than in Ontario, and such duty or tax is equal to or greater than the duty payable on property in this Province, no duty shall be payable thereon in this Province; and if the duty or tax so paid elsewhere is less than the duty payable on property in this Province, then the property upon which such duty or tax has been paid elsewhere shall be subject to the payment of such portion only of the succession duty provided for in the preceding subsections of this section as will equal the difference between the duties payable under this Act with respect to property in the Province of Ontario and the duty or tax so paid elsewhere. Proviso as to property brought into province for administration.

(9) In case an executor or administrator shall in order to escape payment of succession duty, imposed by this Act, distribute any part of the said estate without bringing the same into this Province, such executor or administrator shall be liable personally to pay to Her Majesty the amount of the duty which would have been payable had the assets so distributed been brought within this Province. Provided that this subsection shall not apply to payments made to persons domiciled without the Province out of assets situate without the Province. Personal liability of executors.
Proviso.

(10) Nothing herein contained shall render liable for duty any property *bona fide* transferred for a consideration that is of a value substantially equivalent to the property transferred. 59 V. c. 5, s. 1.

Executors,
etc., to file in-
ventory, and
bonds for pay-
ment of duty.

5.—(1) An executor or administrator applying for letters probate or letters of administration to the estate of a deceased person shall, before the issue of letters probate or administration to him, make and file with the Surrogate Registrar a full, true and correct statement under oath showing :

- (a) A full itemized inventory of all the property of the deceased person and the market value thereof, and
- (b) The several persons to whom the same will pass under the will or intestacy and the degree of relationship, if any, in which they stand to the deceased ;

and the executor or administrator shall before the issue of letters probate or letters of administration deliver to the Surrogate Registrar a bond in a penal sum equal to ten per centum of the sworn value of the property of the deceased person liable, or which may become liable, to succession duty, executed by himself and two sureties, to be approved by the Registrar, conditioned for the due payment to Her Majesty of any duty to which the property coming to the hands of such executor or administrator of the deceased may be found liable. 55 V. c. 6, s. 5 (1) ; 59 V. c. 5, s. 8.

(2) This section shall not apply to estates in respect of which no succession duty is payable. 55 V. c. 6, s. 5 (2).

Where no
executor or
administrator
accountable
for duty.

(3) Where property passes on the death of the deceased and no executor or administrator can be made accountable for succession duty in respect of such property, every person to whom any property so passes for any beneficial interest in possession, and also, to the extent of the property actually received or disposed of by him, every trustee, guardian, committee, or other person in whom any interest in the property so passing, or the management thereof, is at any time vested, and every person in whom the same is vested in possession by alienation or other derivative title shall be accountable for the succession duty on the property, and shall, within two months after the death of the deceased, or such later time as the Treasurer of the Province for the time being shall allow deliver to the Surrogate Registrar of the county in which the said property is situate, and verify an account to the best of his knowledge and belief of the property. 59 V. c. 5, s. 2.

When ap-
praisement by
sheriff may be
directed.

6. In case the Treasurer of the Province is not satisfied with the value so sworn to, or with the correctness of the said inventory, the Surrogate Registrar of the county in which any property subject to the payment of the said duty is situate shall at the instance of the Provincial Treasurer, his solicitor or agent, direct in writing that the Sheriff of the County shall make a valuation and appraise the said property, and also

appraise any property alleged to have been improperly omitted from the said inventory. 59 V. c. 5, s. 3, part.

7. In such case the Sheriff shall forthwith give due and sufficient written notice to the executors and administrators and to such other persons as the Surrogate Registrar may by order direct of the time and place at which he will appraise the property included in the inventory, or any property which in the opinion of the Provincial Treasurer, his solicitor or agent should be included therein, and shall appraise the same accordingly at its fair market value, and make a report thereof in writing to the Surrogate Registrar, together with such other facts in relation thereto, as the Surrogate Registrar may by order require, and such report shall be filed in the office of the Surrogate Registrar, and for the purposes of the said enquiry and appraisalment the said Sheriff shall have all the powers which may be conferred upon Commissioners under *The Act respecting Inquiries concerning Public Matters*. The Sheriff shall be entitled to receive the sum of \$5 per diem for services performed under this Act, and his actual and necessary travelling expenses, and the same shall be paid to him by the Treasurer of the Province. 59 V. c. 5, s. 3, part.

Valuation of property by sheriff.

Rev. Stat. c. 19.

8. Where the Provincial Treasurer his solicitor or agent and the other parties interested do not agree thereon, the Surrogate Registrar shall assess and fix the cash value at the date of the death of the deceased of all estates, interests, annuities and life estates or terms of years growing out of such estate, and the duty to which the same is liable, and shall immediately give notice thereof, by registered letter, to such parties as by the rules of the High Court would be entitled to notice in respect of like interests in an analogous proceeding; and the Surrogate Registrar may appoint for the purpose of this Act a guardian for infants who have no guardians; and the value of every future or contingent or limited estate, income or interest in respect of which the duty is payable at the death of the deceased, either by the terms of this Act or by arrangement made under subsection 3 of section 11, shall, for the purposes of this Act, be determined by the rule, method and standards of mortality and of value, which are employed by the Provincial Inspector of Insurance in ascertaining the value of policies of life insurance and annuities for the determination of the liabilities of life insurance companies, save that the rate of interest to be taken for the purpose of computing the present value of all future interests and contingencies shall be five per centum per annum; and the Inspector of Insurance shall, on the application of any Surrogate Registrar, determine the value of such future or contingent or limited estate, income or interest, upon the facts contained in such application, and certify the same to the Surrogate Registrar, and his certificate shall be conclusive as to the matters dealt with therein. 55 V. c. 6, s. 8; 59 V. c. 5, s. 4.

Mode of assessing property liable to duty.

Appeal from
appraisement
or assessment.

9. Any person dissatisfied with the appraisement or assessment may appeal therefrom to the Surrogate Judge of the county within thirty days after the making and filing of such assessment and upon such appeal the said Judge shall have jurisdiction to determine all questions of valuation and of the liability of the appraised estate or any part thereof for such duty, and the decision of the Surrogate Judge shall be final, unless the property in respect of which such appeal is taken shall exceed in value the sum of \$10,000, when a further appeal shall lie from the decision of the Surrogate Judge to a Judge of the High Court and from such Judge of the High Court to the Court of Appeal, whose decision shall be final. 55 V. c. 6, s. 9; 59 V. c. 5, s. 5.

Bequests
to executors or
trustees.

10. Where a bequest or devise of property, which otherwise would be liable to the payment of duty under this Act, is made to an executor or trustee in lieu of commission or allowance, and said bequest or devise exceeds what would be a reasonable compensation for the services of the executor or trustee, such excess shall be liable to said duty, and the Judge of the Surrogate Court having jurisdiction in the case shall fix such compensation. 55 V. c. 6, s. 10.

When duty
payable on
future estates
and interests.

11.—(1) In all cases where there has been a devise, descent or bequest of property liable to succession duty, to take effect in possession, or to come into actual enjoyment after the expiration of one or more life estates or a period of years, the duty on such future estate or interest shall not be payable, nor interest begin to run thereon, until the person or persons liable for the same shall come into actual possession of such estate or interest, by the determination of the estate or estates for life or years, and the duty shall be assessed upon the value of the estate or interest at the time the right of possession accrues as aforesaid. 55 V. c. 6, s. 11.

Where no per-
son is entitled
to present en-
joyment of the
property.

(2) Provided that where no person is entitled to the present enjoyment of such property or the income thereof, or where there is some part of such property or income to the present enjoyment of which no person is entitled, the duty on such property or income or such part of such property or income shall be payable as in section 12 is provided.

Commuting
duties on
future estates
or interests.

(3) Notwithstanding the duty may under this section not be payable until the time when the right of possession or actual enjoyment accrues, any executor, administrator, guardian, or trustee, or person owning a prior interest, when such executor, administrator, guardian, or trustee, or person has the custody or control of the property, may agree upon or commute for a present payment out of the property in discharge of the said duty; and the Treasurer of the Province may upon the application of any such person commute the succession duty which would or might, but for the commutation, become payable in respect of such interest, for a certain sum to be presently paid,

and for determining that sum shall cause a present value to be set upon such duty, regard being had to the contingencies affecting the liability to and rate and amount of such duty and interest; and on the receipt of such sum the Treasurer shall give a certificate of discharge from such duty.

(4) Provided that the duty chargeable upon any legacy given by way of annuity, whether for life or otherwise, shall be paid by four equal payments, the first of which payments of duty shall be made before or on completing payment of the first year's annuity, and the three others of such payments of duty shall be made in like manner successively, before or on completing the respective payments of the three succeeding years' annuity respectively. In case the annuitant dies before the expiration of the said four years only payment of instalments which fall due before his death shall be required.

When duties on annuities to be paid.

(5) The duty is to be paid on the cash value of all estates, interests, annuities and life estates, or terms of years mentioned in section 8 of this Act, in the same manner as on the other assets of the estate; but the Judge may grant further time for payment thereof, or of a part thereof, where it appears to the Judge that having reference to the condition of the estate, the available means of making such payment, and the interest of others, that payment within the time prescribed by this Act would be unreasonable or unjust; in such cases, as between executors or administrators of the estate and the person who is to become entitled to the possession or enjoyment at a future period only, the duty payable and paid by the executors or administrators in respect of such future estate or interest shall be a charge on such future estate or interest, and shall be paid to them by the person aforesaid with interest at the time the estate or interest comes into actual possession; but the executors or administrators shall be entitled to receive the amount, or any part thereof, at an earlier date if the person to pay desires to pay the same at an earlier date. 59 V. c. 5, s. 6.

Further time may be granted.

12.—(1) The duties imposed by this Act, unless otherwise herein provided for, shall be due and payable at the death of the deceased, or within eighteen months thereafter, and if the same are paid within eighteen months no interest shall be charged or collected thereon, but if not so paid interest at the rate of six per centum per annum from the death of the deceased shall be charged and collected, and such duties together with the interest thereon shall be and remain a lien upon the property in respect to which they are payable until the same is paid. 55 V. c. 6, s. 12.

Duties to be payable within 18 months from death of owner.

(2) The Treasurer of the Province on being satisfied that the full amount of succession duty has been or will be paid in respect of an estate or any part thereof, shall, if required by the person accounting for the duty, give a certificate to that

Certificate of discharge to be given by Provincial Treasurer.

effect, which shall discharge from any further claim for succession duty the property shown by the certificate to form the estate, or such part thereof, as the case may be.

(Certificate not a discharge in case of fraud, etc.

(3) Such certificate shall not discharge any person or property from succession duty in case of fraud or failure to disclose material facts, and shall not affect the rate of duty payable in respect of any property afterwards shown to have passed on the death, and the duty in respect of such property shall be at such rate as would be payable if the value thereof were added to the value of the property, in respect of which duty has been already accounted for.

Except as to *bona fide* purchaser.

(4) Provided, however, that a certificate purporting to be a discharge of the whole succession duty payable in respect of any property included in the certificate shall exonerate from the duty a *bona fide* purchaser for valuable consideration without notice, notwithstanding any such fraud or failure. 59 V. c. 5, s. 9.

Extension of time for payment of duty.

13. The Surrogate Judge may make an order upon the application of any person liable for the payment of said duty, extending the time fixed by law for payment thereof where it appears to such Judge that payment within the time prescribed by this Act is impossible owing to some cause over which the person liable has no control. 55 V. c. 6, s. 13.

Administrators, etc., to deduct duty before delivering property.

14. Any administrator, executor or trustee having in charge or trust, any estate, legacy or property subject to the said duty shall deduct the duty therefrom, or collect the duty thereon upon the appraised value thereof from the person entitled to such property, and he shall not deliver any property subject to duty to any person until he has collected the duty thereon. 55 V. c. 6, s. 14.

Power to sell for payment of duty.

15. Executors, administrators and trustees shall have power to sell so much of the property of the deceased as will enable them to pay the said duty in the same manner as they may by law do for the payment of debts of the testator or intestate. 55 V. c. 6, s. 15.

Duty to be paid to Provincial Treasurer.

16. Every sum of money retained by an executor, administrator or trustee, or paid into his hands for the duty on any property, shall be paid by him forthwith to the Treasurer of the Province, or as he may direct. 55 V. c. 6, s. 16.

Refunding duty upon subsequent payment of debts.

17. Where any debts shall be proven against the estate of a deceased person, after the payment of legacies or distribution of property from which the duty has been deducted, or upon which it has been paid, and a refund is made by the legatee, devisee, heir or next of kin, a proportion of the duty so paid shall be repaid to him by the executor, administrator or

trustee, if such duty has not been paid to the Treasurer of the Province, or by the Treasurer if it has been so paid. 55 V. c. 6, s. 17.

18. If it appears to the Surrogate Judge that any duty accruing under this Act has not been paid according to law, he shall make an order directing the persons interested in the property liable to the duty to appear before the Court on a day certain to be therein named and show cause why said duty should not be paid. The service of such order and the time, manner and proof thereof, and fees therefor, and the hearing and determining thereon, and the enforcement of the judgment of the Court thereon shall be according to the practice in or upon the enforcement of a judgment of the High Court. 55 V. c. 6, s. 18.

Mode of
enforcing pay-
ment of duty.

19. The costs of all such proceedings shall be in the discretion of the Court or Judge and shall be upon the County Court scale unless and until another tariff shall be provided, save as to the costs of an appeal and then upon the scale of the court appealed to. 55 V. c. 6, s. 19.

Costs.

20. Any action, matter or proceeding by or against the Province in respect of duties or claims arising upon or out of any succession, shall be commenced within six years from the time when such duties or claims became payable. 59 V. c. 5, s. 7; 60 V. c. 15, Sched. A. (71).

Limitation of
actions.

21. The Judges and Registrars of the several Surrogate Courts shall be entitled to take for the performance of duties and services under this Act, similar fees to those payable to them under and by virtue of *The Surrogate Courts Act* and the Surrogate Court rules for similar proceedings, and section 83 of such Act shall apply to the fees payable under this Act to the Surrogate Judge. 55 V. c. 6, s. 20.

Fees of judges
and registrars.

Rev. Stat.
c. 59.

22. The Lieutenant-Governor in Council may make regulations for carrying into effect the provisions of this Act, and such regulations shall be laid before the Legislative Assembly forthwith, if the Legislature is in session at the date of such regulations, and if the Legislature is not in session such regulations shall be laid before the House within the first seven days of the session next after the same are made. 55 V. c. 6, s. 22.

Lieutenant-
Governor in
Council may
make regula-
tions.

CHAPTER 25.

An Act respecting Law Stamps.

LAW STAMPS TO BE UNDER THE CONTROL OF THE EXECUTIVE GOVERNMENT, s. 1.

ISSUE OF STAMPS, ss. 2, 3.

FOR WHAT FEES TO BE USED, ss. 4-6.

AFFIXING STAMPS, ss. 7-11.

COURT TO TAKE NOTICE OF ABSENCE OF STAMP, s. 8.

PROVISIONS IN CASE OF OMISSION TO AFFIX STAMPS, s. 12-14.

CANCELLATION OF STAMPS, s. 15.

FEES NOT MULTIPLES OF TEN CENTS INCREASED, s. 16.

SALE OF STAMPS, ss. 17-23.

PENALTIES—

For issuing writ, &c., without being duly stamped, s. 24.

For not obliterating stamps, s. 25.

Application of penalties, s. 26.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Executive Government to take charge of fees payable in stamps, etc.

1. The Executive Government of this Province shall take charge of the fees and charges hereinafter mentioned or referred to, and, under the provisions of this Act, shall have the absolute control and management thereof. R. S. O. 1887, c. 22, s. 1.

Issue of stamps.

2. The Lieutenant-Governor may from time to time, by Order in Council, direct stamps to be prepared for the purposes of this Act, which stamps shall be of one kind but of different denominations, as convenience or the amount of the fees and charges hereinafter mentioned or referred to may from time to time require. R. S. O. 1887, c. 22, s. 2.

Form, etc., of stamps.

3. The Lieutenant-Governor may, by Order in Council, direct of what design and form, and of what colour or colours, the stamps and the different denominations thereof to be issued shall be, and from time to time, as he finds or considers expedient, may alter or change the same. R. S. O. 1887, c. 22, s. 3.

For what purposes stamps shall be used in Ontario.

4. The stamps shall be used in lieu and in payment of the fees and charges which are due and payable to the Crown upon legal proceedings under and by virtue of this Act or of any other Act whatsoever, either now or hereafter in force in Ontario, and under or by virtue of any Order in Council, rule or order of any Court, or proclamation heretofore made or issued, or hereafter made or issued under such Acts or any one or more of them. R. S. O. 1887, c. 22, s. 4.

5. All the said fees and charges shall, throughout this Act, be comprised in the words "fees" and "fee." R. S. O. 1887, c. 22, s. 5.

What shall
be included in
"fees"
and "fee."

6. No money shall be paid to or received by any Court, or any officer of any Court, for any such fee due and payable to the Crown. R. S. O. 1887, c. 22, s. 6.

No money to
be received
for such fee.

7. No paper or proceeding whatever upon which a fee is due or payable to the Crown as aforesaid, shall be issued or shall be received or acted upon by any Court, or by any officer of any Court, until a stamp or stamps under this Act for the sum corresponding in amount with the amount of the fee so due or payable to the Crown as aforesaid, for, upon or in respect of such paper or proceeding, and in lieu of the sum so due and payable to the Crown, has or have been attached to or impressed upon the same. R. S. O. 1887, c. 22, s. 7.

No proceed-
ings on which
such fees are
payable to be
valid until all
dues are paid
by stamps.

[Under Cap. 59, sec. 80, the law stamps for fees payable on a grant of probate or administration are affixed to the order for the grant. As to law stamps, under Land Titles Act, see Cap. 138, sec. 155].

8. Every paper and proceeding whatever, upon which a fee is due or payable to the Crown as aforesaid, and which is not so duly stamped, shall, if not afterwards stamped under the provisions of this Act, be absolutely void for all purposes whatever, and no judge or officer of the Court shall allow any action or step to be taken thereon, although no exception is raised thereto by any of the parties. R. S. O. 1887, c. 22, ss. 8, 12.

Proceedings
not duly
stamped to
be void.

9. In all cases of search, examining and authenticating office copies of papers made by the solicitor, and in all other cases where it has not been customary to use in reference to such search, examination, authentication, matter or thing, any written or printed document or paper whereon the stamp could be stamped or affixed, the party or his solicitor, requiring such matter or thing so to be done, shall make application for the same by a short note or memorandum in writing, and a stamp or stamps to the amount of the fee so payable shall be stamped on or affixed to such note or memorandum. R. S. O. 1887, c. 22, s. 9.

Cases of
search, etc.,
provided for.

10. No sheriff or other officer or person shall serve or execute any writ, rule, order or proceeding, or the copy of any writ, rule, order or proceeding upon which any such fee or charge is due or payable, and which is not duly stamped under this Act, and every such service and execution contrary to this Act shall be void, and no recompense shall be allowed therefor. R. S. O. 1887, c. 22, s. 10.

No unstamped
process, etc.,
to be served.

Another stamp required whenever another charge is due.

11. No paper or proceeding which has been duly stamped for the purpose for which it has been used, shall be considered as stamped for any other purpose, in case another fee or charge is due or payable thereon for any other or further use of the same paper or proceeding. R. S. O. 1887, c. 22, s. 11.

Court may allow stamps to be affixed on certain terms.

12. Any party who has omitted to duly stamp any paper or proceeding may apply to the Court or to any Judge having jurisdiction in the case, for leave to have the same duly stamped, and in case this Act has not been knowingly and wilfully violated, the application shall on payment of costs be granted for the duly stamping of such paper or proceeding with stamps of such amount beyond the fee due thereon as may be thought reasonable, not exceeding ten times the amount of the stamp. R. S. O. 1887, c. 22, s. 13.

Retro-active effect of order.

13. The affixing of such stamp or stamps, under any order made for that purpose, shall have the same effect as if the said paper or proceeding had been duly stamped in the first instance. R. S. O. 1887, c. 22, s. 14.

Affix stamps to papers unstamped or insufficiently stamped.

14.—(1) Where the Inspector of Legal Offices, or any other officer inspecting legal offices under the authority of an order of the Lieutenant-Governor in Council, finds a paper or proceeding which should have had affixed to it law stamps, to be unstamped, or to be insufficiently stamped, he may require the officer to whom belonged the duty of seeing that the paper was properly stamped, to affix to every such paper or proceeding a stamp or stamps of a sufficient amount to make up the deficiency.

(2) The Inspector or other officer directing stamps to be affixed as aforesaid shall cancel the stamps so affixed in such manner as shall be directed by the Lieutenant-Governor in Council, and the affixing of such stamps by direction of the Inspector shall have the same effect as if the paper or proceeding had been duly stamped in the first instance. R. S. O. 1887, c. 22, s. 15; 58 V. c. 12, s. 173.

Cancellation of stamps.

15. In every case in which a stamp or stamps has or have, under this Act, been attached to or impressed upon any paper or proceeding, it shall be the duty of the officer who issues or receives such paper or proceeding, forthwith upon the issue or upon the receipt thereof, to cancel the same by perforation or in such other manner as the Lieutenant-Governor in Council may direct. R. S. O. 1887, c. 22, s. 16.

Fees or dues to the Crown increased in certain cases.

16. All fees now payable or hereafter at any time to become payable shall be at the following rates: all fees up to ten cents shall be made and paid at ten cents; all from ten cents to twenty cents, at twenty cents; all from twenty cents to thirty cents, at thirty cents; and so in like manner all other fees which are not multiples of ten cents, shall be stated and

payable at the multiple of ten cents next above the sum at which they are so stated ; except that the charge for examining and authenticating office copies of papers, shall be, when the same do not exceed three folios, five cents ; and for every three folios above the first three folios, an additional five cents ; and for any number of folios less than three, above any number of folios divisible by three, the charge for such broken number shall be five cents. R. S. O. 1887, c. 22, s. 17.

17. The Provincial Treasurer shall procure the necessary stamps required under this Act, from time to time, as they may be required, and he shall keep an account of the numbers, denomination and amount thereof, and of the dates at which they are so procured and delivered. R. S. O. 1887, c. 22, s. 18.

18. The Provincial Treasurer, upon payment to him of the proper amount, shall deliver such of the said stamps as may be from time to time required, and he shall keep an account of the number, denomination and amount thereof, according as he receives and delivers them. R. S. O. 1887, s. 22, s. 19.

19. The Provincial Treasurer shall, subject to the provisions hereinafter contained, allow to any person who takes at any one time stamps to the amount of \$5 or upwards, discount at the rate of five per centum. R. S. O. 1887, c. 22, s. 20.

20. The Lieutenant-Governor, by Order in Council, may however, if he deems it expedient, make arrangements with any person or persons for the sole sale of stamps to him or them in any locality, and for such time as may be thought expedient, at any rate of discount, not exceeding, however, the rate above stated, and in such case the Treasurer shall not issue any stamps to any other person in the locality specified in such Order in Council. R. S. O. 1887, c. 22, s. 21.

21. The restriction as to the rate of discount contained in the preceding two sections shall not apply to the officer for the sale of law stamps at Osgoode Hall. R. S. O. 1887, c. 22, s. 22.

22. In case an arrangement is so made with any person or persons for the sale of stamps, as under section 20 mentioned, such person shall be bound at all times to keep on hand such a supply of the different kinds of stamps during the time for which the arrangement lasts, as may be reasonably expected to be required of him ; and he shall be bound to sell the same to all persons who may demand the same upon payment to him of the amount or value of such stamps ; and in case of any violation of any duty imposed by this section, he shall forfeit as a penalty to Her Majesty a sum not exceeding \$20, and shall further be liable for the damages sustained by any person through such violation of duty. R. S. O. 1887, c. 22, s. 23.

Allowance for stamps spoiled or returned.

23. The Lieutenant-Governor in Council may, from time to time, make such regulations as may be thought expedient, for an allowance for such stamps issued under this Act as may have been spoiled or rendered useless or unfit for the purpose intended, or for which the owner may have no immediate use, or which through mistake or inadvertence may have been improperly or unnecessarily used; and such allowance shall be made either by giving other stamps in lieu of the stamps so allowed for, or by repaying the amount or value to the owner or holder thereof, after deducting the discount (if any) allowed on the sale of stamps of the like amount. R. S. O. 1887, c. 22, s. 24.

Penalty for issuing, etc., any writ or proceeding without having it duly stamped.

24. Every person who knowingly issues, or knowingly receives, procures or delivers, or who knowingly serves or executes any writ, rule, order, paper or proceeding upon which any fee is due or payable to the Crown as aforesaid, without the same being first duly stamped under this Act, for the fee payable thereon, shall be subject for the first offence to a fine not exceeding \$10, for the second offence to a fine not exceeding \$50, and for the third and every subsequent offence to a fine of \$200; and in default of payment of such fines shall be subject to imprisonment for a period not exceeding one month for the first offence, three months for the second offence, and one year for the third and every subsequent offence. R. S. O. 1887, c. 22, s. 25.

Penalty for not properly obliterating stamps.

25. Every person who fails or omits to obliterate and cancel any stamp in the manner and at the time hereinbefore provided shall be subject to a fine not exceeding \$20, and, in default of payment thereof, to imprisonment for a period not exceeding two months. R. S. O. 1887, c. 22, s. 26.

Application of fines.

26. All fines imposed by this Act shall be paid to the Provincial Treasurer, for the general uses of the Province, and shall be recovered before any Court having competent jurisdiction to the amount, at the instance of Her Majesty's Attorney-General for Ontario; and the production of any such writ, rule, order, paper or proceeding unstamped, or stamped for too low and insufficient a sum, or the stamp of which is not properly and sufficiently obliterated and cancelled, or the proof of any such writ, rule, order, paper or proceeding having been unstamped or not sufficiently stamped at the time when it was so issued or received, or served or executed as aforesaid, or of the stamp not having been properly and sufficiently obliterated and cancelled, shall be sufficient *prima facie* evidence of such writ, rule, order, paper or proceeding having been knowingly or wilfully so issued or received, or served or executed without being or having been first stamped, or without the stamp having been properly and sufficiently obliterated and cancelled. R. S. O. 1887, c. 22, s. 27.

Proof in actions for fines.

CHAPTER 26.

An Act respecting the Taxation of Patented Lands in Algoma, Manitoulin, Thunder Bay and Rainy River.

TAX OF ONE CENT IMPOSED—EXEMPTIONS, s. 1.	FOR REDEMPTION HAS EXPIRED, ss. 23-25.
SCHOOL TAX ON UNOCCUPIED LANDS, s. 2.	FEE FOR SEARCH IN REGISTRY OFFICE, s. 26.
TREASURER MAY CANCEL TAXES IN CERTAIN CASES, s. 3.	OWNER OF A SUB-DIVISION MAY PAY TAXES ON HIS PORTION, s. 27.
LISTS OF LANDS LIABLE TO TAX TO BE FURNISHED BY COMMISSIONER OF CROWN LANDS, ss. 4, 5.	REDEMPTION BY OWNER WITHIN A YEAR, s. 28.
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RIGHTS OF PURCHASER BEFORE TIME	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1.—(1) Except as in this section provided, an annual tax of one cent per acre to and for the public uses of this Province is hereby imposed on all lands granted or hereafter to be granted by the Crown, situate in the Territorial Districts of Algoma, Manitoulin, Thunder Bay or Rainy River.

(2) The lands situate in the Municipality of Shuniah or in any other Municipality now existing in any of the said Districts, shall not be liable to the said tax. Provided that lands in municipalities which have been formed since the 31st day of December, 1887, shall remain subject to all arrears of the said taxes which were, or shall be, owing thereon at the time notice of the formation was, or shall be, given to the Treasurer of the Province

An annual tax of one cent per acre imposed upon all lands granted

Exemption from tax in existing municipalities.

Exemption
from tax in
future munici-
palities.

(3) No lands situate in any Municipality which may hereafter be formed within the said Districts shall, after notice of the formation of the Municipality has been given to the Treasurer of the Province, be liable to the said tax, but the lands shall remain subject to all arrears then owing on account thereof; and the arrears when collected shall be the property of the Province.

Arrears.

Exemptions of
farming lands.

(4) All lands within the said Districts, which are occupied as farming lands and *bona fide* used for farm purposes, shall be exempt from the said tax.

Proof on claim
of exemption.

(5) No lands shall be entitled to the exemption provided for in the preceding subsection, until the owner or other person claiming exemption, shall have furnished to the Treasurer proof by affidavit or otherwise, that the lands in respect of which the exemption is claimed, are occupied for farming purposes as aforesaid, and shall have obtained the decision in writing of the Provincial Treasurer or Assistant Treasurer to the effect, that such lands are entitled to exemption under the said subsection.

Proof to be
filed.

(6) The proof so furnished, shall be filed by the Treasurer in his office with a memorandum of his decision.

Limit of
exemption.

(7) No greater quantity of land than three hundred and twenty acres in the occupation of any one resident, shall be exempt, unless a larger quantity is in actual cultivation, in which case so much as is in actual cultivation shall be exempt.

Appropriation
of tax for
school pur-
poses.
Rev. Stat.
c. 292.

(8) In the case of patented lands in school sections formed under *The Public Schools Act*, the said tax shall, when collected, be paid over by the Provincial Treasurer yearly to the trustees of the respective school sections entitled thereto. R. S. O. 1887, c. 23, s. 1.

School tax on
unoccupied
lands.

Rev. Stat.
c. 292.

2.—(1) In addition to the tax provided by section 1 of this Act, a further tax of one cent an acre shall be imposed upon all unoccupied lands embraced in any school section formed under the authority of section 41 of *The Public Schools Act*, and for the information of the Treasurer in charging such tax upon the lands liable therefor, the secretary or secretary-treasurer of the school board shall, on the formation of a school section in any unorganized township, give written notice thereof to the Provincial Treasurer, and shall yearly, on or before the first day of August, furnish him with a list of all the lands embraced in the said school section, distinguishing such as are occupied from those that are unoccupied, and the said additional tax shall when collected be paid over annually to the trustees of the respective school sections in which such land is situate. No land so returned as unoccupied by the secretary-treasurer of the school board shall be subject to any school rates imposed by the trustees in the year in which they are so returned.

(2) The said additional tax hereby imposed shall be subject to all the conditions as to penalty for default and provisions for collection as the tax imposed by section 1 of this Act. Collection of additional tax.

R. S. O. 1887, c. 23, s. 2.

3. The Treasurer may cancel the taxes charged on any land, on proof being made to his satisfaction in manner aforesaid, that the land was, during the time for which the tax was imposed, occupied as farming land, and *bona fide* used by the person claiming the benefit of this provision. Treasurer empowered to cancel taxes in certain cases. R. S. O. 1887, c. 23, s. 3.

4. The Commissioner of Crown Lands shall, on or before the first day of April in each year, transmit to the Treasurer of the Province a list of all lands granted in the said Districts during the year ending on the thirty-first day of December then last past, specifying in the list the number or letter by which each lot or parcel of land is designated in the patent therefor, and when the lot or parcel of land is not designated in the patent therefor, by a number or letter, then defining the same by some general designation or description, indicating the locality thereof, and referring for a more particular description thereof to the patent therefor, and stating the date of the patent and the name of the grantee therein. List of patented lands to be furnished annually by the Commissioner of Crown Lands to Treasurer. R. S. O. 1887, c. 23, s. 4.

5. Every such list shall be certified under the hand of the Commissioner of Crown Lands for the time being, or the Assistant-Commissioner, and shall contain a statement of the quantity of land contained in each lot or parcel of land so granted within the said Districts, and, for the purposes of this Act, the quantity specified in such list shall be held and regarded as the true and actual quantity or measurement of land contained in each such lot or parcel, and shall form the basis upon which the said tax or rate shall be computed. List to be certified. R. S. O. 1887, c. 23, s. 5.

6. The Treasurer of the Province shall provide a book or books to be kept in his office, in which he shall after the receipt by him of the said annual list, and between the first day of October and the thirty-first day of December in each year, enter and set down all the lands mentioned and specified in such list, and granted by the Crown during the year ending on the thirty-first day of December then last past, and shall enter opposite each lot or parcel the quantity of land contained in such lot or parcel, and also the amount of the tax against such lot or parcel for one year, computed at the rate of two cents per acre, which shall be, and shall be regarded as the tax imposed upon each such lot or parcel, for one year, ending on the thirty-first day of December then next; and each such lot or parcel shall thereupon be and become subject to the payment of the amount so set down against the same. Treasurer to keep books in which lands and taxes to be entered. R. S. O. 1887, c. 23, s. 6.

Annual account to be kept against each lot, and ten per cent. added to arrears.

7. The Treasurer of the Province shall also, between the first day of January and the first day of April in every year, make up and ascertain, as against every lot or parcel of land so set down in his said book or books, the arrears of taxes, if any, owing thereon, on the thirty-first day of December in the preceding year, and still unpaid, and shall bring forward the same with ten per cent, added thereto; and he shall between the first day of October and the thirtieth day of December also ascertain and enter against the said lots or parcels respectively, the taxes payable for the year ending on the thirty-first day of December then next, and he shall add the said arrears, if any, and the said ten per cent thereon, and the amount of the taxes for the said then current year together, and bring forward the total amount thereof in another column; which said last-mentioned amount shall constitute the taxes then owing under the authority of this Act upon every such lot or parcel of land. R. S. O. 1887, c. 23, s. 7.

Payment, etc., where several lots included in one patent.

8. Where several lots or parcels of land are granted in one patent, it shall not be necessary, and shall not be held to have been necessary, to keep the amount owing in respect of each lot or parcel separately in the books of the Treasurer of Ontario, but each such lot or parcel shall be sold separately in case of a sale for arrears, and any owner shall be at liberty at any time to pay the taxes owing in respect of any of the lots or parcels mentioned in the patent, or in case he only owns portion of a lot or parcel he may pay the taxes owing in respect of such portion R. S. O. 1887, c. 23, s. 8; 60 V. c. 15, Sched. A. (6).

Provisions enabling owner of any parcel included in patent with others to have a separate account of taxes kept for such parcel.

9. In case any person claims to have bought a particular portion of a lot or parcel mentioned in the patent, he shall, upon producing, properly verified by affidavit or statutory declaration, the deeds shewing him to be entitled to the lands, and the quantity contained in such portion, for the inspection of the Treasurer, and paying up all arrears upon the lot or parcel, and not otherwise, be entitled to have such portion entered in the Treasurer's books separate from the rest of the lot or parcel, and the taxes in respect of such portion shall thereafter be kept separate from the taxes for the rest of the lot, and the same rule shall be observed in case of a further division of the lot, parcel or portion. R. S. O. 1887, c. 23, s. 9.

Land to be sold when taxes in arrear for three years.

10. Whenever a portion of the taxes so ascertained, made up and entered as aforesaid, has been due for three years, the Treasurer of the Province may sell the land for the arrears of taxes then due thereon with costs. R. S. O. 1887, c. 23, s. 10.

Treasurer to publish list shewing arrears.

11. Whenever a portion of the tax on any land has been due for three years, the Treasurer shall prepare a list of the lands on which taxes are so in arrear, shewing the amount of arrears due

on each lot or parcel, and shall cause the list to be published twelve consecutive times in the *Ontario Gazette*, and for a like period in some newspaper published in the district in which the land lies, if any such there be. The Lieutenant-Governor in Council shall have power from time to time to extend beyond the term of three years, the time for the enforced collection by sale of the said taxes. R. S. O. 1887, c. 23, s. 11.

Lieut.-Governor may extend time for payment.

12. The advertisement shall contain a notification that unless said arrears are sooner paid, the Treasurer will proceed to sell the lands for taxes, on a day to be named in the advertisement. R. S. O. 1887, c. 23, s. 12.

What advertisement to contain.

13. The day of sale shall not be less than three months, nor more than six months, after the first publication of the list in the *Ontario Gazette*. R. S. O. 1887, c. 23, s. 13.

Day of sale.

14. The Treasurer shall also post a notice similar to the advertisement on some convenient and public place, at the Court House of the District, at least three weeks before the time of the sale. R. S. O. 1887, c. 23, s. 14.

Notice in Court House.

15. If, at the time appointed for the sale, no bidders appear, the Treasurer may adjourn the sale from time to time. R. S. O. 1887, c. 23, s. 15.

If no bidders, sale may be adjourned.

16. The Treasurer shall in every case add to the arrears so published a proportionate share of the cost of publication, according to their amounts respectively. R. S. O. 1887, c. 23, s. 16.

Cost of publication.

17. If the taxes are not previously paid or tendered, the Treasurer shall sell by public auction, on the day appointed for the sale, so much of the land as may be necessary and sufficient to discharge the taxes, and all lawful charges incurred in and about the sale and collection of the taxes, selling in preference such part as he considers it most to the advantage of the owner to sell first. R. S. O. 1887, c. 23, s. 17.

If taxes not previously paid, lands to be sold.

18. Where, at a sale of lands for arrears of taxes under this Act, the Treasurer fails to sell any land for the full amount of arrears due thereon, he shall at the sale adjourn the sale of the land until a day then to be publicly named by him not being earlier than one month nor later than three months thereafter, of which adjourned sale he shall give notice by public advertisement in the newspapers in which the original sale was advertised; and on such day he may (unless he thinks proper to exercise the power conferred by section 20) sell the lands for any sum he can realize, and such sum shall be accepted as full payment of the arrears of taxes, but the owner of any land so sold shall not be at liberty to redeem the same except upon payment of the full amount of taxes due, together with the expenses of sale. R. S. O. 1887, c. 23, s. 18.

Proceedings when land does not sell for full amount of taxes.

If purchase money not paid, lands to be put up again for sale.

19. If the purchaser of a parcel of land fails, on demand, to pay the Treasurer the amount of the purchase money, the Treasurer may forthwith again put up the property for sale, and sell the same. R. S. O. 1887, c. 23, s. 19.

Treasurer may buy in lands remaining unsold after a tax sale.

20.—(1) Where lands are offered for sale under this Act for arrears of taxes, and no sale is made to another person for a sum sufficient to pay the taxes due and costs, the Treasurer of the Province or some officer or person duly authorized by him may purchase for the amount of such taxes and costs, any such lands which cannot be so sold; and any such lands so purchased shall become the property of and become vested in Her Majesty for the uses of the Province, and shall again become public or Crown lands of the Province and subject to the provisions of *The Public Lands Act*, but this shall not deprive the owner of land so purchased of the right to redeem the same within one year under the provisions of this Act.

Rev. Stat. c. 28.

(2) Such purchase may be made for or on behalf of the Province either when the lands are first offered for sale at auction or at the adjourned sale.

Purchase to cancel claim of Crown for taxes.

(3) Such purchases on behalf of the Province shall have the effect of cancelling the claim of the Province for all taxes due or imposed upon lands so purchased. 55 V, c. 7, ss. 1, 3.

Record of lands purchased.

21. The Treasurer shall duly enter the lands so purchased in a book to be kept for that purpose, and shall also give a certificate thereof in duplicate to the Commissioner of Crown Lands, who shall keep one copy thereof of record in the Crown Lands Department and the other shall be duly recorded in the proper Registry or Land Titles Office as the case may be. A book shall also be kept in the Crown Lands Department in which a list of all such lands shall be duly entered. 55 V. c. 7, s. 2.

Reservation of pine timber on lands sold for taxes.

22. Neither the sale nor the certificate thereof of the Provincial Treasurer nor the deed of conveyance by such Treasurer of lands sold for taxes under this Act shall convey or transfer to the purchaser or his assigns the pine trees or pine timber thereon, where by the patent of such lands the same have been reserved to Her Majesty. This section shall apply to all past sales and the certificates and deeds given in pursuance thereof as well as to future sales and the certificates and deeds which may be hereafter given. 55 V. c. 7, s. 4.

Treasurer to give purchaser a certificate of the land sold.

23. The Treasurer, after selling any land for taxes, shall give a certificate under his hand to the purchaser, stating distinctly what part of the land has been sold, and describing the same, and also stating the quantity of land sold, the sum for which it has been sold, and the expenses of the sale, and further stating that a deed conveying the same to the purchaser or his assigns will be executed by the Treasurer on his or their demand, at any

time after the expiration of one year from the date of the certificate, if the land be not previously redeemed. R. S. O. 1887, c. 23, s. 20.

24. The purchaser shall, on receiving the Treasurer's certificate of sale, become the owner of the land, so far as to have all necessary rights of action and powers for protecting the same, from spoliation or waste, until the expiration of the term during which the land may be redeemed; but he shall not knowingly permit any person to cut timber growing on the land or otherwise injure the land, nor shall he do so himself, but he may use the land in such a manner as will not deteriorate its value. R. S. O. 1887, c. 23, s. 21.

Purchaser to be deemed the owner for certain purposes.

25. From the time of payment to the Treasurer of the full amount of the redemption money, required by this Act, the purchaser shall cease to have any further right in, or to use the land in question. R. S. O. 1887, c. 23, s. 22.

On payment by owner of taxes purchaser's rights to cease.

26. If the Treasurer cannot give a sufficient description of any lands sold by him without a search in the Registry Office of the District, he shall, in addition to the charge hereinbefore authorized, be entitled to charge the fee for the necessary search. R. S. O. 1887, c. 23, s. 23.

The Treasurer may add fee for searching Registry Office.

27. Where lands in either of the said Districts for which a patent has been or may hereafter be issued, have been subdivided, the owner of any portion thereof may tender and pay the Treasurer the arrears of taxes upon the portion of which he is owner, and the costs incurred in respect thereof, and thereupon such portion shall be exempted and withdrawn from sale. R. S. O. 1887, c. 23, s. 24.

Owner of any subdivision may pay taxes on his portion, and such portion shall not be sold.

28. The owner of land which may be sold for taxes under the provisions of this Act, for non-payment of taxes thereon, or his heirs, executors, administrators or assigns, may at any time within one year from the day of sale (exclusive of that day) redeem the land sold by paying to the Treasurer, for the use and benefit of the purchaser or his legal representatives, the sum paid by him, together with ten per cent thereon, and the Treasurer shall give the party paying such redemption money, a receipt stating the sum paid, and the object of payment, and the receipt shall be evidence of redemption. R. S. O. 1887, c. 23, s. 25.

Owner may redeem within one year.

29. If the land be not redeemed within the period so allowed for its redemption, being one year exclusive of the day of sale, as aforesaid, then on the demand of the purchaser or his assigns, or other legal representatives, at any time afterwards, and on payment of \$1, the Treasurer shall execute and deliver to him or them a deed of conveyance, in duplicate, of the land sold. R. S. O. 1887, c. 23, s. 26.

If not redeemed, purchaser entitled to a deed.

In case of death, etc., of Treasurer, his successor may execute deed.

30. If, after a sale for arrears of taxes is made under this Act, and before the execution of a deed of conveyance to the purchaser, the Treasurer by whom the sale was conducted dies, or ceases to hold office, such deed may be executed by the successor of such Treasurer. R. S. O. 1887, c. 23, s. 27.

Certificate to be given for registry, its effect, etc.

31. The Registrar or Deputy Registrar of the Registry Division in which the land lies, upon production of the duplicate deed, shall enter the same in the Registry Book, and give a certificate of such entry and registration, in accordance with *The Registry Act*; but all deeds executed on or before the 31st day of December, 1877, may be registered in the manner theretofore in force. R. S. O. 1887, c. 23, s. 28.

Rev. Stat. c. 136.

Treasurer to keep a record of all sales.

32. The Treasurer shall enter in a book, to be kept by him as Treasurer, a full description by metes and bounds of every parcel of land conveyed by him to purchasers for arrears of taxes, with an index thereto, and such book, after such entries therein have been made by him, shall be kept by him amongst the records of his office. R. S. O. 1887, c. 23, s. 29.

Taxes payable at Treasurer's office in Toronto, on 1st Oct., but agents may be appointed in Districts to receive the same.

33. The taxes imposed by this Act shall be payable at the office of the Treasurer of the Province, in the City of Toronto; and for the purpose of this Act shall be considered to be due and payable on the first day of October in every year; but the Treasurer may appoint one or more agents, resident in the said Districts, to receive the taxes, or any part or portion thereof, and payment to the agent or agents so authorized shall be considered payment to the said Treasurer. R. S. O. 1887, c. 23, s. 30.

Certain sections of Rev. Stat. c. 224 to apply to this Act.

34. Unless where inconsistent with this Act, sections 184, 198, 203, 204 and 208 to 222 inclusive of *The Assessment Act* shall apply to sales by the Provincial Treasurer under this Act, and to the lands sold. R. S. O. 1887, c. 23, s. 31:

[As to sales made before 25th March, 1886, see R. S. O. 1877, c. 22; 45 V. c. 2, s. 6; 46 V. c. 4, s. 1, and 49 V. c. 5.]

Notice of formation of school sections.

35. On the formation of a school section in any unorganized Township, the secretary of the school board shall give written notice thereof to the Provincial Treasurer, and shall also furnish him with a list of all the lands embraced in the said school section, distinguishing such as are occupied as farming lands from those that are unoccupied. R. S. O. 1887, c. 23, s. 32.

CHAPTER 27.

An Act respecting the Government House Property.

PROPERTY TO BE SOLD, s. 1.	MENT HOUSE AND MAINTENANCE,
APPROPRIATION FOR MAINTENANCE	ss. 3-5.
IN MEANTIME LIMITED, s. 2.	TERMS OF SALE, s. 6.
PROCEEDS OF SALE TO FORM FUND	ACCOUNT OF RECEIPTS AND PAY-
FOR ERECTION OF NEW GOVERN-	MENTS, s. 7.

WHEREAS the land on which the Government House Preamble.
stands and hereinafter described has come to be
within the business portion of the City of Toronto so that
while it is becoming every year less adapted for the purpose
to which it is being applied its value is now so great that it
can no longer be so applied with due regard to economy ; and
whereas the estimated value of the said land is such that the
proceeds to arise from the sale thereof will suffice to provide
for the cost of purchasing other property and erecting and
maintaining new buildings for the use of the Lieutenant-
Governor ; and whereas it is expedient that the said land
should be sold and other land purchased and new buildings
erected thereon, or that other land and buildings should be
purchased ;

Therefore Her Majesty, by and with the advice and consent
of the Legislative Assembly of the Province of Ontario, enacts
as follows :—

1. The lands following, that is to say : That parcel of land Lands form-
ing Gov-
ernment
House block
to be sold.
in the City of Toronto on which the present Government
House is situate, and which is bounded as follows :— Com-
mencing at the intersection of the southerly limit of King
Street with the westerly limit of Simcoe Street, thence
southerly along the westerly limit of Simcoe Street 437 feet
more or less to the northerly limit of Wellington Street,
thence westerly along the northerly limit of Wellington
Street 617 feet. thence northerly parallel to the westerly limit
of Simcoe Street 437 feet more or less to the southerly limit of
King Street, thence easterly along the southerly limit of
King Street 617 feet more or less to the place of beginning,
containing six and one-fifth acres more or less, when a perfect
title is obtained therefor from the Government of Canada and
the same can be sold with profit and advantage and within five

years, shall be sold by public auction, or upon tenders invited by public advertisement in that behalf, or in the event of failure to make a sale in either of such ways then by private sale, if the same can be sold to better advantage. 60 V. c. 5, s. 1.

Appropriation
for Govern-
ment House
limited.

2. In the meantime and until such sale and so long as the said house and premises shall be occupied by the Lieutenant-Governor of the Province, not exceeding such five years, the sum appropriated by the Legislature of the Province for and in connection with the maintenance of the said house and premises and otherwise as is specifically mentioned and set out in the report of the Select Committee of the Legislative Assembly on the 7th day of April, 1897, and adopted by the Legislative Assembly, shall not exceed the sum or sums mentioned in the said report and the sums so appropriated shall be for the purposes therein mentioned. This shall not prevent the appropriation of fifteen hundred dollars for gardens and gardening in addition to the sum of six thousand five hundred dollars if the Assembly so determines. 60 V. c. 5, s. 2.

Proceeds of
lands to form
fund for erec-
tion of new
Government
House.

3. The lands hereinbefore described are hereby set apart for the purposes of forming and creating out of the proceeds to be realized from the sale thereof a fund to recoup and reimburse the Province in respect of so much as shall be expended by authority of the Legislature of the Province in the purchase of land and the erection of new buildings thereon, as and for the purpose of a residence for the Lieutenant-Governor of the Province, or in the purchase of other lands and buildings at a convenient place to be used for the purposes aforesaid. 60 V. c. 5, s. 3.

Surplus to be
set apart for
future main-
tenance.

4. The remainder of such purchase money shall be set apart and shall be known as the Government House Maintenance Fund and shall be invested by the Treasurer of the Province at the best interest that can be obtained therefor, or shall be paid into the Consolidated Revenue of the Province and shall bear interest at the rate of four per cent. per annum; such interest shall be applied towards the maintenance, furnishing and repair of said new Government House buildings and property as particularly specified in the said report and shall be paid out by the Treasurer from time to time as the same may be required and approved for the purposes aforesaid, and no other sum shall be annually appropriated by the Legislature of the Province for the purposes aforesaid or for such maintenance and support of Government House. 60 V. c. 5, s. 4.

Sums expend-
ed before sale
to be a first
charge on
proceeds.

5. In the event of its being found expedient to make the purchase of such new site or to begin the erection of a new Government House prior to the sale of the above described lands as aforesaid and the Legislature of the Province appropriates any sum or sums for that purpose, any sum so appropriated and

expended shall be a first charge upon the moneys to be realized from the sale of the said lands in favor of the Province. 60 V. c. 5, s. 5,

6. The said above described lands may be sold for cash or Terms of sale. upon time or partly for cash and partly upon time and upon such terms, stipulations, provisoes and conditions as the Lieutenant-Governor in Council may direct, and the lands so sold shall be granted and conveyed to the respective purchasers by Letters Patent in which nevertheless any terms, conditions, stipulations or provisoes whatever, upon which the said land shall have been so sold, may be inserted and such terms, stipulations, provisoes and conditions shall be enforced by all courts whether they are or are not such as are in other cases held to be consistent with a grant. 60 V. c. 5, s. 6.

7. An account of all moneys paid out or received for any of Account of receipts and payments. the purposes aforesaid shall be laid before the Legislative Assembly within 20 days after the opening of the then next Session thereof. 60 V. c. 5, s. 7.

2. PUBLIC LANDS.

CHAPTER 28.

An Act respecting the Sale and Management of Public Lands.

- SHORT TITLE, s. 1.
 INTERPRETATION, s. 2.
 CROWN LANDS DEPARTMENT, AND OFFICERS AND AGENTS CONNECTED THEREWITH, ss. 3-10.
 ORDERS IN COUNCIL, s. 11.
 CLAIMS TO LANDS UNDER FORMER ACTS, ETC., s. 12.
 GRANTS, SALES AND LICENSES OF OCCUPATION.
 May be set apart for certain public purposes, s. 13.
 Price to be fixed by Lieutenant-Governor in Council, s. 14.
 Reservation of mines in patent unnecessary, s. 15.
 Mines may be expressly granted, s. 16.
 Licenses of occupation to intending purchasers, etc., s. 17.
 Licenses before 23rd April, 1860, s. 18.
 Registration of assignments of claim in the C. L. Department, s. 19.
 Tax deeds may be acted upon by Department and patents issued, ss. 20-22.
 Commissioner may decide claims by heirs; etc., of deceased nominees, s. 23.
 FORFEITURE OF CLAIMS.
 Cancellation of sales for fraud, s. 24.
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 PATENTS ISSUED IN ERROR, ETC.
 Where clerical errors, new patent may issue, s. 27.
 Where double or inconsistent grants, purchase money returned or other lands assigned, s. 28.
 Compensation where deficiency of land by means of false survey, ss. 29, 30.
 Registration of judgment avoiding patent, s. 31.
 REDUCTION IN PRICE OF CERTAIN LANDS SOLD BEFORE 1ST JULY, 1867, ss. 32-36.
 TRANSMISSION OF LISTS OF PUBLIC LANDS FOR REGISTRATION AND ASSESSMENT PURPOSES.
 Assessment of lands unpatented, but which have been sold, etc., s. 37.
 List for Treasurers, s. 38.
 List for Registrars, s. 39.
 PENALTIES.
 Employees of C. L. Department trafficking in public lands or scrip or taking fees, s. 40.
 Agents giving false information, s. 41.
 MISCELLANEOUS.
 Notices in respect to Crown lands, how given, s. 42.
 Publication of lists of lands for sale, s. 43.
 Affidavits for purposes of this Act, before whom may be made, ss. 44-46.
 Attested copies of departmental records to be evidence, s. 47.
 Non-observance of certain conditions not to affect titles to lands granted before 23rd April, 1860, s. 48.
 Sales and appropriations of water lots declared to be legal, s. 49.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enact— as follows:—

1. This Act may be cited as "*The Public Lands Act.*" R. S. O. Short title. 1887, c. 24, s. 1.

2. In the construction of this Act the term "Public Lands" shall be held to apply to lands heretofore designated or known as Crown Lands, School Lands, or Clergy Lands, which designations, for the purposes of administration, shall still continue. R. S. O. 1887, c. 24, s. 2.

Interpretation
of the term
"Public
Lands."

CROWN LANDS DEPARTMENT.

3. There shall continue to be a Department for the management and sale of the Public Lands and Forests, to be called "The Department of Crown Lands;" and the same shall be presided over by "The Commissioner of Crown Lands" for the time being. R. S. O. 1887, c. 24, s. 3.

Department
and Commis-
sioner of
Crown Lands.

4. There shall continue to be an "Assistant Commissioner of Crown Lands," who shall be appointed from time to time as a vacancy occurs, by the Lieutenant-Governor in Council, and shall perform such duties in the Department as may be, assigned to him by the Lieutenant-Governor in Council, or the Commissioner of Crown Lands, and shall preside over the Department and discharge therein the duties of the Commissioner of Crown Lands in the absence of that officer or in the case of a vacancy in the office of Commissioner, and shall, before entering on the duties of his office, take an oath faithfully to discharge the same, which oath shall be administered by the Commissioner of Crown Lands, or any person appointed by the Lieutenant-Governor for that purpose. R. S. O. 1887, c. 24, s. 4.

Assistant
Commissioner
of Crown
Lands; his
appointment,
duties and
oath of office.

5. The Department and office of the Surveyor General of this Province shall continue to be consolidated with the Department and office of the Commissioner of Crown Lands, under the superintendence and management of the said Commissioner. R. S. O. 1887, c. 24, s. 5.

Departments
of Surveyor-
General and
Commissioner
of Crown
Lands consoli-
dated.

6. All the powers and duties which, before the 17th day of March, 1845, were assigned to or vested in the Surveyor-General, shall be vested in the Commissioner of Crown Lands; and the said powers and duties shall be exercised and performed by him, or by any assistants or clerks in his Department or office or by any person whom he by an instrument in writing under his hand, authorizes to that effect, and under such name or designation of office as he may fix, as effectually as they might before the said day have been exercised or performed by the Surveyor-General. R. S. O. 1887, c. 24, s. 6.

Powers and
duties of
the Surveyor-
General to be
exercised and
performed
by the Com-
missioner of
Crown Lands.

Appointment
of officers and
agents.

7. The Lieutenant-Governor may from time to time appoint officers and agents to carry out this Act and orders in Council under it, which officers and agents shall be paid in such manner and at such rates as the Lieutenant-Governor in Council may direct. R. S. O. 1887, c. 24, s. 7.

Commissioner,
Assistant
Commissioner
and agents to
give security.

8. The Lieutenant-Governor in Council shall require from the Commissioner of Crown Lands and from the Assistant Commissioner, and from every agent appointed under him, security for the due performance of his duty. R. S. O. 1887, c. 24, s. 8.

Purchase, etc.,
by agent of
land, etc., in
his agency,
forbidden.

9. No county or resident agent for the sale of Public Lands shall, within his division, directly or indirectly, unless under an order of the Lieutenant-Governor in Council, purchase any land which he is appointed to sell, or become proprietor of or interested in any such land, during the time of his agency, and any such purchase or interest shall be void; and if an agent offends in the premises, he shall forfeit his office and the sum of \$400 for every offence, to be recovered in an action by any person who may sue for the same. R. S. O. 1887, c. 24, s. 9.

Commissioner
to report
annually to the
Legislature.

10. The Commissioner of Crown Lands shall annually lay before the Legislative Assembly, and within ten days after the meeting thereof, a report of the proceedings, transactions and affairs of the Department during the year then next preceding. R. S. O. 1887, c. 24, s. 10.

Lieutenant-
Governor in
Council may
make orders
for carrying
out this Act.

11. The Lieutenant-Governor in Council may, from time to time, make such orders as are necessary to carry out the provisions of this Act according to their obvious intent, or to meet cases which may arise and for which no provision is made by this Act; and the orders shall be published in the *Ontario Gazette*, and in such newspapers as the Commissioner of Crown Lands may direct, and shall be laid before the Legislative Assembly within the first ten days of the session next after the date thereof; but no order shall be inconsistent with this Act, save that the powers herein given to the Commissioner of Crown Lands may be exercised by the Lieutenant-Governor in Council, and shall be subject to any Order in Council regulating or affecting the same from time to time. R. S. O. 1887 c. 24, s. 11.

Proviso.

Determina-
tion of claims
arising under
repealed Acts,
Orders in
Council, etc.

12. Any claim to land arising under any Act, or under any Order in Council, or other regulation of the Government in force before the 23rd day of April, 1860, shall be determined by the Commissioner of Crown Lands, subject to such arrangement and order in respect to improvements on particular lands as the Commissioner may think just; or the same may be satisfied by issuing, to the party entitled, land scrip, or a certificate entitling him to purchase land to such an amount as the Commissioner of Crown Lands may find just;

but no claim for land arising from Militia, United Empire Loyalist, or Military Rights, shall be entertained unless the same was actually located or admitted, or proof in support thereof, sufficient in the opinion of the Commissioner of Crown Lands, furnished before the passing, on the 14th of June, 1853, of the Act 16th Victoria, chapter 159. R. S. O. 1887, c. 24, s. 12.

GRANTS, SALES AND LICENSES OF OCCUPATION AND ASSIGNMENT THEREOF.

13. The Lieutenant-Governor in Council may set apart and appropriate such of the Crown Lands as he may deem expedient for the sites of Wharves or Piers, Market Places, Gaols, Court Houses, Public Parks or Gardens, Town Halls, Hospitals, Places of Public Worship, Burying Grounds, Schools, and for purposes of Agricultural Exhibitions, and for other like public purposes, and for Model or Industrial Farms; and at any time before the issue of letters patent therefor, may revoke such appropriation as seems expedient; and may make free grants for the purposes aforesaid, and the trust and uses to which they are to be subject shall be expressed in the letters patent; but no grant shall be for more than ten acres in any one instance, and for any one of the purposes aforesaid, except for a Model or Industrial Farm, which shall not exceed one hundred acres. R. S. O. 1887, c. 24, s. 13.

Lands may be set apart for certain public purposes, and free grants thereof made in trust.

Proviso.

14. The Lieutenant-Governor in Council may, from time to time, fix the price per acre of the public lands, and the terms and conditions of sale and of settlement and payment. R. S. O. 1887, c. 24, s. 14.

Lieut.-Gov-
ernor to
fix price of
public land.

15.—(1) It shall not be necessary hereafter in any letters patent for lands granted under this Act or for agricultural purposes to mention the reservation to the Crown of mines, minerals or mining rights, but the same shall be and are hereby reserved, unless otherwise provided in the patent or grant from the Crown.

Express reser-
vation of
mines in let-
ters patent
unnecessary.

(2) Such mines, minerals and mining rights, so reserved by the preceding subsection, shall be property separate from the surface of the soil, or from the soil covering the same, and shall constitute a property under the soil, and shall continue to be the property of the Crown and be public property independent from that of the soil above it, unless the proprietor of the soil has acquired it from the Crown as a mining location or otherwise.

Mines on
lands patented
to continue to
be Crown
property.

(3) This section shall not apply to any lands sold, granted or leased under *The General Mining Act*, being chapter 31 of the Revised Statutes of 1887, for mining purposes, nor to land located or sold under *The Public Lands Act*, being chapter 24 of the said Revised Statutes, prior to the 4th day of May, 1891, without reserve of minerals, for which a patent has been issued or shall hereafter be issued. 54 V. c. 7, s. 1.

Application of
section.

Lieutenant-Governor may set apart lands to be granted with mining rights therein.

16. The Lieutenant-Governor in Council may, notwithstanding the next preceding section, from time to time, by order, set apart any tract or tracts of land or territory within the Province not being mineral land, in respect of which the grants or patents shall expressly vest in the grantee the mines, minerals and mining rights, or such of them as shall be specifically mentioned in the order or in the patent. 54 V. c. 7, s. 2.

Licenses of occupation to be issued to intending settlers—their effect.

17. The Commissioner of Crown Lands may issue, under his hand and seal, to any person who has purchased or may purchase, or is permitted to occupy, or has been entrusted with the care or protection of any Public Land, or who has received or been located on any Public Land as a free grant, an instrument in the form of a license of occupation; and such person or his assignee, by an instrument registered under this or any former Act, providing for registration in such cases, may take possession of and occupy the land therein comprised, subject to the conditions of the license, and may thereunder, unless the same has been revoked or cancelled, maintain actions against any wrongdoer or trespasser, as effectually as he could do under a patent from the Crown; and the license of occupation shall be *prima facie* evidence for the purpose of possession by such person, or his assignee under an instrument registered as aforesaid, in such action, but the same shall have no force against a license to cut timber existing at the time of granting thereof. R. S. O. 1887, c. 24, s. 15.

Licenses of occupation, certificates, receipts and location tickets issued before 23rd April, 1860,—their effect.

18. Every license of occupation granted prior to the 23rd day of April, 1860, and every certificate of sale or receipt for money received on the sale of Public Lands, and every location ticket theretofore granted or made by the Commissioner of Crown Lands or any agent of his, so long as the sale or grant to which the license of occupation, receipt, certificate, or location ticket relates is in force, and not rescinded, shall have the same force, and shall enure to the benefit of the party to whom the same was granted, or to his assignee, by instrument registered as aforesaid, in the same manner and to the same extent as the instrument in the form of a license of occupation mentioned in the next preceding section. R. S. O. 1887, c. 24, s. 16.

Commissioner to keep a register of assignments of claims to lands; on what proof entries shall be made therein, their effect, etc.

19.—(1) The Commissioner of Crown Lands shall keep a book for registering (at the option of the parties interested) the particulars of any assignment made as well by the original nominee, purchaser, locatee or lessee of Public Lands, or his heir or legal representative, as by any subsequent assignee of any such Public Lands or the heir or legal representative of such assignee; and upon the assignment being produced to the Commissioner, with an affidavit of due execution thereof, and of the time and place of such execution, and the name, residence and occupation of every witness thereto, the Commissioner shall cause

the material parts of every such assignment to be registered in the said book of registry, and shall cause to be endorsed on every such assignment a certificate of registration, to be signed by himself or by the Assistant Commissioner, or by any officer of the Department by him authorized to sign such certificates.

(2) Every assignment so registered shall be valid against one previously executed, and unregistered or subsequently registered; but all assignments to be registered must be unconditional, and all the conditions of the sale, grant or location must have been complied with, or dispensed with by the Commissioner of Crown Lands, before registration is made.

First registered assignment to be valid.

Proviso.

(3) If a subscribing witness to an assignment is deceased or has left the Province, the Commissioner may register the assignment upon the production of an affidavit proving the death or absence of the witness and his hand-writing, or the handwriting of the party making the assignment. R. S. O. 1887, c. 24, s. 17.

On what proof assignment may be registered when witness dead or absent.

20. Where the proper officer or officers having by law the power or authority to make or execute deeds on sales of lands for taxes have heretofore made or executed, or shall hereafter make or execute any deed purporting to grant, sell or convey any land or portion of land, the fee of which is in Her Majesty, or purporting to grant, sell or convey the interest therein of a locatee or purchaser from the Crown, and the deed recites, or purports to be based upon a sale for taxes of the land or interest, the Commissioner of Crown Lands may act upon and treat the deed as a valid transfer of all the right and interest of the locatee or purchaser from the Crown, and of every person claiming under him, in or to such land or portion of land to the grantee named in the deed, and may cause a patent for the land to be issued to the grantee on completion of the original conditions of the location for sale, unless the deed is questioned before a Court of competent jurisdiction by some person interested in the land within two years from the time of sale, and unless notice of the deed being so questioned, within the time aforesaid, is given to the Commissioner of Crown Lands. R. S. O. 1887, c. 24, s. 18.

Deeds executed by the proper officers for sales of lands for taxes may be acted upon by the Commissioner of Crown Lands.

21. The preceding section shall not apply to a deed based or purporting to be based upon a sale for taxes made prior to the 1st day of January, in the year 1868. R. S. O. 1887, c. 24, s. 19.

Sect. 20 not to apply to certain deeds for taxes.

22. The preceding two sections shall not interfere with the authority of the Commissioner of Crown Lands under this Act to cancel the original sale, grant or location of any such land. R. S. O. 1887, c. 24, s. 20.

Sects. 20 and 21 not to affect the power of the Commissioner to cancel sales, etc.

Commissioner may receive proof in support of claim for patent by heir, etc., of deceased nominee.

Power to apply to Heir and Devisee Commissioners under Rev. Stat. c. 31, reserved.

23. On an application for a patent by the heir, assignee or devisee of the original nominee of the Crown, the Commissioner of Crown Lands may receive proof in such manner as he may direct and require in support of any claim for a patent when the original nominee, or any one claiming under him, is dead, and upon being satisfied that the claim has been equitably and justly established, may allow the same and cause a patent to issue accordingly; but nothing in this section shall limit the right of the party claiming a patent to make his application at any time to the Commissioners under *The Act respecting the Heir, Devisee and Assignee Commission*. R. S. O. 1887, c. 24, s. 21.

FORFEITURE OF CLAIMS.

Sale, etc. of land may be cancelled in case of fraud or error.

24. If the Commissioner of Crown Lands is satisfied that a purchaser, grantee, locatee or lessee of Public Land, or any assignee claiming under or through him, has been guilty of fraud or imposition, or has violated any of the conditions of sale, grant, location or lease, or of the license of occupation, or if such sale, grant, location or lease, or license of occupation has been or is made or issued in error or mistake, he may cancel such sale, grant, location, lease or license, and resume the land therein mentioned, and dispose of it as if no sale, grant, location or lease thereof had ever been made. R. S. O. 1887, c. 24, s. 22.

Mode of obtaining possession, if settler refuses to deliver up land on revocation of license, etc.

25. Where a purchaser, lessee or other person refuses or neglects to deliver up possession of any land after revocation or cancellation of the sale, grant, location, lease or license of occupation thereof as aforesaid, or when a person is wrongfully in possession of public land and refuses to vacate or abandon possession of the same, the Commissioner of Crown Lands may apply to the County Judge of the County in which the land lies for an order for possession, and the Judge, upon proof to his satisfaction that the right or title of the party to hold the land has been revoked or cancelled as aforesaid, or that he is wrongfully in possession of public land, shall grant an order upon the purchaser, lessee or person in possession, to deliver up the same to the Commissioner of Crown Lands, or person by him authorized to receive the same and the order shall have the same force as a writ of possession; and the Sheriff, or Bailiff or person to whom the same may be entrusted for execution by the Commissioner of Crown Lands, shall execute the same in like manner as he would execute a writ in an action for the recovery of land. R. S. O. 1887, c. 24, s. 23.

RENT IN ARREAR.

26. Where rent payable to the Crown on a lease of Public Lands is in arrear, the Commissioner of Crown Lands, or an agent or officer appointed under this Act and authorized by the Commissioner of Crown Lands to act in such cases, may issue a warrant, directed to any person or persons by him named therein, in the nature of a distress warrant, as in ordinary cases of landlord and tenant; and the same proceedings may be had thereon for the collection of such arrears as in the last mentioned cases; or an action may be brought therefor in the name of the Commissioner of Crown Lands, but demand of rent shall not be necessary in any case. R. S. O. 1887, c. 24, s. 24.

Commissioner or other officer may issue distress warrant for rent in arrear;

Or action may be brought.

PATENTS ISSUED IN ERROR.

27.—(1) Where a patent has been issued to or in the name of the wrong person, through mistake in the Crown Lands Department, or contains any clerical error or misnomer, or wrong description of the land thereby intended to be granted, the Commissioner of Crown Lands (there being no adverse claim) may direct the defective patent to be cancelled and a correct one to be issued in its stead, which corrected patent shall relate back to the date of the one so cancelled and have the same effect as if issued at the date of such cancelled patent. R. S. O. 1887, c. 24, s. 25.

Erroneous patents may be cancelled.

(2) Where the Commissioner of Crown Lands has authority under this section to direct an incorrect patent to be cancelled and a correct one to be issued in its stead, he may, notwithstanding the land has been registered under *The Land Titles Act*, cause a subsequent patent to be issued referring to the incorrect patent and correcting the error therein. 56 V. c. 22, s. 10 (1) part.

Correction of errors in patents after registration Rev. Stat. c. 138.

28. In all cases in which grants or letters patent have been issued for the same land inconsistent with each other through error, and in all cases of sales or appropriations of the same land inconsistent with each other, the Commissioner of Crown Lands may, in cases of sale, cause a repayment of the purchase money, with interest, or when the land has passed from the original purchaser or has been improved before a discovery of the error, or, when the original grant or appropriation was a free grant, he may in substitution assign land or grant a certificate entitling the party to purchase Crown lands, of such value and to such extent as to him, the Commissioner of Crown

Compensation in case of double or inconsistent grants.

Proviso. Lands, seems just and equitable under the circumstances ; but no claim shall be entertained unless it is preferred within five years from the discovery of the error. R. S. O. 1887, c. 24, s. 26.

Compensation for deficiency of land by reason of false survey or error in departmental books or plans. **29.** Where by reason of false survey or error in the books or plans in the Crown Lands Department, any grant, sale or appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the patent therefor, the Commissioner of Crown Lands may order the purchase money of so much land as is deficient, with the interest thereon from the time of the application therefor, or if the land has passed from the original purchaser, then the purchase money which the claimant (provided he was ignorant of any deficiency at the time of his purchase) has paid for so much of the land as is deficient, with interest thereon from the time of the application therefor, to be paid to him in land or in money, as he, the Commissioner of Crown Lands, may direct; or in case of a free grant, he may order a grant of other land equal in value to the land so intended as a free grant at the time the grant was made; but no claim shall be entertained unless application has been made within five years from the date of the patent, nor unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the particular lot or parcel of land granted. R. S. O. 1887, c. 24, s. 27.

Proviso.

Compensation under ss. 28 and 29 to be personalty—Except, in certain cases. **30.** Compensation awarded under the preceding two sections of this Act (except where land is specifically assigned therefor by the Commissioner of Crown Lands) and all claims therefor shall be treated as personal estate, and dealt with accordingly R. S. O. 1887, c. 24, s. 28.

Registration of judgments. Rev. Stat. c. 138. **31.** Subject to *The Land Titles Act*, if a patent for land is repealed or avoided by the High Court, the judgment shall be registered in the registry office of the registry division in which the land lies. R. S. O. 1887, c. 24, s. 29.

Reduction in the price of lands sold by the Crown beyond their fair value. **32.** The Lieutenant-Governor in Council shall have authority to reduce the price of any Crown Lands, Clergy Land, Common or Grammar School Land sold by the Crown previously to the 1st day of July, in the year 1867, where it appears that such land has been sold at a price beyond its fair value, and that the price remains unpaid. R. S. O. 1887, c. 24, s. 30.

Abatement of interest. **33.** The Lieutenant-Governor in Council shall also have authority to make such abatement as may appear equitable and just, of the arrears of interest upon the unpaid instalments of the purchase money of any Crown Land, Clergy Land, Common or Grammar School Land sold by the Crown previously to the 1st day of July aforesaid; but the reductions and abatements shall be made only in respect of, and in proportion to, the

share or interest of this Province in the lands, and the price thereof, and shall not in anywise extend to or affect the share or interest of the Province of Quebec in the lands or the price thereof. R. S. O. 1887, c. 24, s. 31.

34. Before the reduction or abatement as aforesaid is made, the land in respect of which the reduction or abatement is proposed shall be examined and valued by one or more inspector or inspectors, appointed for that purpose by the Lieutenant-Governor in Council, or by the Commissioner of Crown Lands. R. S. O. 1887, c. 24, s. 32.

Inspection of lands.

35. The reduction and abatement shall be confined to cases in which the purchaser from the Crown or person claiming under him is in occupation of the land, and is an actual settler thereon, or on land adjacent thereto. R. S. O. 1887, c. 24, s. 33.

Persons entitled to a reduction.

36. The Lieutenant-Governor may, by Order in Council, confer upon the Commissioner of Crown Lands authority to make the reduction or abatement as aforesaid, subject to the provisions of this Act, and subject also to such other provisions, not inconsistent with this Act, as may be embodied in an Order in Council. R. S. O. 1887, c. 24, s. 34.

Authority of Commissioner of Crown Lands to make reduction.

ANNUAL LISTS OF LANDS GRANTED, ETC., BY THE CROWN.

37. Public lands for which no patents have issued, but which have been sold, leased, located as free grants or appropriated to any person, or for which licenses of occupation have been granted, shall be liable to assessment in the municipalities in which they respectively lie, from the date of the sale, lease, location, appropriation or license; and a purchaser at the sale of such lands for taxes shall have in the lands so sold the same rights only as the person entitled to claim under the Crown at the time of such sale. R. S. O. 1887, c. 24, s. 35.

Assessment of unpatented lands.

38. The Commissioner of Crown Lands shall in the month of February in every year transmit to the treasurer of every county a list of all the land within the county patented, located as free grants, sold or agreed to be sold by the Crown, or leased, or appropriated to any person, or in respect of which a license of occupation issued during the preceding year, and the Commissioner of Crown Lands shall in like manner apprise every treasurer of the cancellation of any license of occupation, or of any sale, lease, license, location, or appropriation, from which time until again sold, leased, located, appropriated or placed under license, the land affected shall cease to be liable to taxes. R. S. O. 1887, c. 24, s. 36.

Annual lists of lands granted, etc., to be furnished by Commissioner of Crown Lands to county treasurers.

39—(1). The Provincial Secretary shall, once in every three months, furnish to the Registrar of every registry division, a statement containing a list of the names of all persons to

Provincial Secretary to furnish Registrar

with quarterly statement of Crown grants.

Maps to be furnished by Commissioner of Crown Lands.

Duty of Registrar where land under The Land Titles Act. Rev. Stat. c. 138.

whom patents have issued from the Crown for grants of land within the registry division since the former statements, and of all persons whose patents have been cancelled since the former statements, and with such general or particular descriptions as the case may require; and the Commissioner of Crown Lands shall furnish copies of all plans or maps of towns and townships within the registry division which have not been already furnished, and in cases where no proper survey of any Township has been made he may cause a proper survey and plan thereof to be made and furnished. R. S. O. 1887, c. 24, s. 37; 56 V. c. 21, s. 110.

(2) In case a list of patented lands, furnished to the Registrar of a registry division under this section, contains any land coming within section 169 of *The Land Titles Act*, it shall be stated in the list that such land is subject to the said Act, and in such case and also whenever the Provincial Secretary notifies the Registrar of a registry division of the issue of a patent of land coming within said section 169, the Registrar shall in the abstract index enter the fact that the land is subject to the said Act, and shall not thereafter receive for registration any instrument affecting the land. R. S. O. 1887, c. 116, s. 144; 52 V. c. 20, s. 10.

OFFENCES AND PENALTIES.

Employees of the Crown Lands Department not to traffic in public lands or take fees.

Penalty.

Penalty on agent knowingly giving false information, etc.

40. No person holding an office created by or continued under this Act (save in the case provided for in section 9,) or employed in the Department, shall, while holding such office or employment, directly or indirectly purchase any right, title or interest in any public land, or any land scrip, nor deal nor traffic in the same, either in his own name, or by the interposition of any other person, or in the name of any other person in trust for himself, nor shall take or receive any fee or emolument for negotiating or transacting any business connected with the duties of his office or employment; and any person offending in the premises shall forfeit his office or employment, and be liable to a penalty of \$400, to be recovered by action by any person suing for the same. R. S. O. 1887, c. 24, s. 38.

41. If an agent, appointed or continued in office under this Act, knowingly and falsely informs, or causes to be informed, any person applying to him to locate or purchase any land within his division and agency, that the same has already been located, assigned or purchased, or refuses to permit the person so applying to purchase the same, or (where entitled), to locate the same, according to existing regulations, such agent shall be liable therefor to the person so applying, in the sum of \$5 for each acre of land which the person so applying offered to locate or purchase, to be recovered by action in any Court of Record having jurisdiction to the amount. R. S. O. 1887, c. 24, s. 39.

MISCELLANEOUS.

42. Where by law or by deed, lease or agreement relating to any lands herein referred to, any notice is required to be given, or any act to be done, by or on behalf of the Crown, such notice may be given and act done by or by the authority of the Commissioner of Crown Lands. How notices required to be given in respect of Crown Lands. R. S. O. 1887, c. 24, s. 40.

43. The Commissioner of Crown Lands shall cause lists of the Public Lands for sale in the several Townships in Ontario to be made out from time to time, and advertised and published as he deems most advisable for ensuring general information. Lists of public lands for sale to be published. R. S. O. 1887, c. 24, s. 41.

44. Affidavits required under this Act, or intended to be used in reference to any claim, business or transaction in the Crown Lands Department, may be taken before the Judge or Clerk of any County or District Court, or any Justice of the Peace, Notary Public, or any Commissioner for taking affidavits in the High Court, or the Commissioner of Crown Lands, or any agent of the Commissioner of Crown Lands, or the Assistant Commissioner of Crown Lands, or any Surveyor duly licensed and sworn, appointed by the Commissioner of Crown Lands to inquire into or take evidence or report in any matter submitted or pending before such Commissioner; or if made out of the Province, before the Mayor or Chief Magistrate of, or the British Consul in, any City, Town or other Municipality, or before a Judge of a Court of Record, certified under the seal of the Court, or before a Notary Public certified under his official seal. Before whom affidavits under this Act may be made. R. S. O. 1887, c. 24, s. 42; 60 V. c. 15, Sched. A. (7).

45. The Commissioner or the Assistant Commissioner of Crown Lands may authorize, by a commission under the hand and seal of the Commissioner or Assistant Commissioner, any person who is employed in the service of the Crown Lands Department, to take affidavits and affirmations in any part of Ontario, in respect of any matter or inquiry having reference to any business of the Department, or of any matter or inquiry in respect of which the Department is interested, or which affects the revenue of Ontario. When inquiry directed Commissioner of Crown Lands may authorize the taking of affidavits. R. S. O. 1887, c. 24, s. 43.

46. The authority granted by virtue of any commission under the preceding section, may be limited to a certain period of time, or may be expressed to be while the commissioner receiving authority under the commission remains in the service of the Department; but the same shall in any event determine upon the commissioner ceasing to be employed in such service. Duration of such commissions. R. S. O. 1887, c. 24, s. 44.

Attested copies of departmental records, etc., to be evidence.

47.—(1) Copies of records, documents, books or papers belonging to or deposited in the Department, attested under the signature of the Commissioner or of the Assistant Commissioner, shall be competent evidence in all cases in which the original records, documents, books or papers, could be evidence. R. S. O. 1887, c. 24, s. 45.

Copies of documents as evidence.

(2) Copies of licenses or other instruments or documents issued under the hand of the Commissioner or Assistant Commissioner, or other officer or agent of the Department, by authority of this Act, or *The Act respecting Timber on Public Lands*, shall be received in any court as *prima facie* evidence of the license, instrument or document, and of the contents thereof, if such copies are attested under the signature of the Commissioner or Assistant Commissioner, and the official seal of the Department. 59 V. c. 7, s. 1.

Rev. Stat. c. 32.

Patent or title of patentee or of any subsequent purchaser not affected by non-observance of certain conditions.

48. The non-observance and non-fulfilment of the condition imposed in and by certain patents issued for Public Lands, of taking the oaths which may have been before the 23rd day of April, 1860, prescribed in case of any subsequent sale, conveyance, enfeoffment or exchange, by the patentee, and of recording such oaths, within twelve months after having taken possession, in the office of the Provincial Secretary, or of performing certain settlement duties, shall not affect in any way the patent or title of any patentee, or of any subsequent purchaser or proprietor. R. S. O. 1878, c. 24, s. 46.

Sales and appropriations of water lots declared to be legal.

49. It has been heretofore, and it shall be hereafter lawful for the Lieutenant-Governor in Council to authorize sales or appropriations of land covered with water in the harbours, rivers and other navigable waters in Ontario, under such conditions as it has been, or it may be, deemed requisite to impose, but not so as to interfere with the use of any harbour as a harbour, or with the navigation of any harbour, river or other navigable water. R. S. O. 1887, c. 24 s. 47.

CHAPTER 29.

An Act respecting Free Grants and Homesteads to Actual Settlers on Public Lands.

SHORT TITLE, s. 1.

FREE GRANTS LIMITED, s. 2.

FREE GRANTS TO ACTUAL SETTLERS,
ss. 3-18.

Territory defined, s. 4.

To whom made, and amount of
grant, ss. 5, 6.Affidavit of locatee to obtain
grant, s. 7.When locatee entitled to patent,
s. 8.Settlement duties to be performed,
s. 9.When commissioner may dispense
with, ss. 10-12.Pine trees and minerals reserved,
ss. 13, 14.Payments to patentees of part of
dues, s. 15.Crown may grant timber licenses
over Free Grant lands, ss.
16-18.

ALIENATION BY LOCATEE—

Not before patent issued, s. 19.

To be by deed of locatee and his
wife jointly, s. 20.Exception where wife a lunatic,
etc., ss. 21, 22.Statements to be made in patent,
s. 23.RIGHTS OF WIDOW OF LOCATEE, s.
24.EXEMPTION OF LAND FROM LIABILITY
FOR DEBTS OF LOCATEE, ss. 25, 26.

SETTLER'S HOMESTEAD FUND, s. 27.

REMISSION OF SUMS DUE BY FORMER
SETTLERS IN CERTAIN FREE
GRANT TOWNSHIPS, ss. 28, 29.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Free Grants and Homesteads Act*," and shall be taken and read as part of *The Public Lands Act*. R. S. O. 1887, c. 25, s. 1.

Short title.
Rev. Stat.,
c. 28.

FREE GRANTS TO ACTUAL SETTLERS.

2. Except as hereinafter and in sections 12 and 13 of *The Public Lands Act* provided, no free grant of Public Land shall be made, but patents may issue for all lands located as free grants before the 28th day of February, 1868, under section 13 of *The Public Lands Act* of 1860, as if this Act had not been passed. R. S. O. 1887, c. 25, s. 2.

Free grants
limited.
Rev. Stat.
c. 28.
23 V. c. 2, s. 15

3. The Lieutenant-Governor in Council may appropriate any Public Lands considered suitable for settlement and cultivation, and not being mineral lands or pine timber lands, as free grants to actual settlers, under such regulations as shall from time to time be made by Order in Council not inconsistent with the provisions of this Act. R. S. O. 1887, c. 25, s. 3.

Free grants
may be made
to actual set-
tlers.

Free grants
to be confined
to lands with-
in certain
territory.

4. Such grants or appropriations shall be confined to lands surveyed or hereafter to be surveyed, situate within the tract or territory composed of the Districts of Algoma, Thunder Bay, Rainy River and Nipissing, and of the lands lying between the Ottawa River and the Georgian Bay to the west of a line drawn from a point opposite the south-east angle of the Township of Palmerston, north-westerly along the western boundaries of the Townships of North Sherbrooke, Lavant, Blithfield, Admaston, Bromley, Stafford and Pembroke to the Ottawa River, and to the north of the rear or northerly boundaries of the Townships of Oso, Olden, Kennebec, Kaladar, Elzevir, Madoc, Marmora, Belmont, Dummer, Smith, Ennismore, Somerville, Laxton, Carden, Rama, and of the River Severn, excepting therefrom the lands composing the Algonquin National Park. R. S. O. 1887, c. 25, s. 4; 56 V. c. 8, s. 2; 57 V. c. 14, s. 1.

Locatee de-
fined.

5. The person to whom any land may be allotted or assigned under the regulations for a free grant thereof shall be considered as located for the said land within the meaning of this Act, and is hereinafter called the locatee thereof. R. S. O. 1887, c. 25, s. 5.

Who may not
be located, and
limitation as
to quantity of
land.

6. No person shall be located for any land under this Act or the regulations, unless he is of the age of eighteen years or upwards, nor shall any person be so located for a greater quantity than two hundred acres. R. S. O. 1887, c. 25, s. 6.

Affidavit of
person desiring
location.

7.—(1) Before a person is located for any land as aforesaid he shall make an affidavit, to be deposited with the agent authorized to make the location, stating that he has not been located for any land under this Act or under the regulations, and, that he is of the age of eighteen years or upwards, and believes the land for which he applies, or desires to be located is suited for settlement and cultivation, and is not valuable chiefly for its mines, minerals or pine timber, and that the location is desired for his benefit, and for the purpose of actual settlement and cultivation of the land, and not either directly or indirectly for the use or benefit of any other person, nor for the purpose of obtaining, possessing, or disposing of any of the pine trees growing or being on the land, or any benefit or advantage therefrom, or any gold, silver, copper, lead, iron or other mines or minerals, or any quarry or bed of stone, marble or gypsum thereon. Where a female applies to be located the affidavit shall also state that she is the sole head of a family, and has children under 18 years of age residing with her.

Second loca-
tion may be
obtained.

(2) Provided always, that any person who has obtained a patent under this Act may, on shewing by affidavit that he has *bona fide* and absolutely parted with the land so patented, obtain another location. R. S. O. 1887, c. 25, s. 7.

8. No patent shall issue for land located under this Act or under the regulations until the expiration of five years from the date of the location, nor until the locatee or those claiming under him or some of them have performed the following settlement duties, that is to say:—have cleared and have under cultivation at least fifteen acres of the said land, (whereof at least two acres shall be cleared and cultivated annually during the five years next after the date of the location, to be computed from such date,) and have built a house thereon fit for habitation at least sixteen feet by twenty feet, and have actually and continuously resided upon and cultivated the said land for the term of five years next succeeding the date of the location, and from thence up to the issue of the patent, except that the locatee shall be allowed one month from the date of the location to enter upon and occupy the land, and that absence from the land for in all not more than six months during any one year (to be computed from the date of the location) shall not be held to be a cessation of residence, provided the land be cultivated as aforesaid R. S. O. 1887, c. 25, s. 8.

Patent not to issue before expiration of five years.

Settlement duties required.

9. On failure in performance of the settlement duties aforesaid, the location shall be forfeited, and all rights of the locatee or of any one claiming under him in the land, shall cease. R. S. O. 1887, c. 25, s. 9.

Location to be forfeited if settlement duties not performed.

10. In case a person who has complied with all the settlement duties under this Act and obtained a patent for only one lot, is entitled to and desires to obtain another 100 acres to make up his full quantity, or having obtained his full quantity as a Free Grant has purchased an additional 100 acres under the orders and regulations under this Act, and such additional location or purchase is adjacent to his patented lot, the Commissioner of Crown Lands upon being satisfied that such lands are not chiefly valuable for their pine timber, and are suited only or principally for grazing purposes or as a fuel reserve, may dispense with residence and settlement duties upon them provided there are thirty acres cleared upon the patented lot, and may issue the patent at the expiration of the time required by this Act. 53 V. c. 6, s. 2.

Commissioner may dispense with residence and settlement duties in certain cases.

11. In case a person is *bona fide* the owner and occupant of land in a free grant district acquired otherwise than as a free grant under this Act and is entitled and desires to obtain a free grant location and such location is adjacent to the land which he owns and occupies, the Commissioner of Crown Lands upon being satisfied by inspection or evidence that the lands are not chiefly valuable for their pine timber, and are suited only or principally for grazing purposes or as a fuel reserve, and that there are thirty acres cleared upon the lands which he owns and upon which he resides, may dispense with clearing

Commissioner may dispense with clearing and residence in certain cases.

and residence upon such free grant location and issue the patent at the expiration of the time required by this Act. 53 V. c. 6, s. 3.

If occupant for six years not regularly located through inadvertence patent may issue before five years.

12. In case a person entitled to obtain a location under the provisions of this Act has, without objection by the Crown, for a period of six or more years occupied or made the required improvements upon one or more lots (not exceeding the quantity which may be granted under this Act) of land prior to the said land being brought under the operation of this Act, or if the land be open for location, in case he has so occupied but has not, either through inadvertence or oversight, been regularly located, the Commissioner of Crown Lands, subject to such regulations as may be provided in that behalf, may after location as by this Act is provided, issue the patent upon proof of the performance of the required settlement duties and without waiting for the expiration of five years from the date of location, but this section shall not apply where it appears to the Commissioner that the lot has been selected chiefly on account of the pine timber thereon. 53 V. c. 6, s. 4.

PINE TREES AND MINERALS.

Reservation of timber and mines.

13.—(1) Pine trees growing or being upon land located or sold within the limits of the Free Grant territory after the 5th day of March, 1880, and gold, silver, copper, lead, iron or other mines or minerals shall be considered as reserved from the location, and shall be the property of Her Majesty, except that the locatee, or purchaser, or those claiming under them, may cut and use such pine trees as may be necessary for the purpose of building and fencing on the land so located, and may also cut and dispose of all trees required to be removed in the actual clearing of the land for cultivation, but no pine trees (except for the necessary building and fencing as aforesaid) shall be cut beyond the limit of such actual clearing; and pine trees cut in the process of clearing, and disposed of, shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or sawlogs. R. S. O. 1887, c. 25, s. 10.

Locatee of two or more lots may cut pine on any for building and fencing.

(2) Where the land allotted to a locatee or purchaser under this Act, is composed of two or more lots, or parcels of lots, the said locatee or purchaser or those claiming under him may cut such pine trees as may be necessary for the purpose of building and fencing as hereinbefore provided, on any one or more of the said lots or parcels of lots so located or purchased, and may use the said pine trees on the same lot or of any of the other lots or parcels of lots held by him as a free grant or by purchase under this Act, whether located at the same time or otherwise. 53 V. c. 6, s. 5.

14. The patents for all lands located or sold as aforesaid shall contain a reservation of all pine trees standing or being on the lands, which pine trees shall continue to be the property of Her Majesty; and any person now or hereafter holding a license to cut timber or saw logs on such lands, may at all times during the continuance of the license enter upon the uncleared portion of such lands, and cut and remove such trees and make all necessary roads for that purpose, and for the purpose of hauling in supplies, doing no unnecessary damage thereby, but the patentees or those claiming under them may cut and use such trees as may be necessary for the purpose of building and fencing on the lands so patented, and may also cut and dispose of all trees required to be removed in actually clearing the land for cultivation, but no pine trees (except for necessary building and fencing as aforesaid) shall be cut beyond the limit of the actual clearing; and all pine trees so cut and disposed of shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or sawlogs. R. S. O. 1887, c. 25, s. 11.

Reservation of
pine trees in
patents.

15. The patentee, his heirs or assigns, of land located or sold under this Act, after the 5th day of March, 1880, shall be entitled to be paid out of the Consolidated Revenue of the Province, on all pine trees cut on such land subsequent to the 30th day of April next after the date of the patent, and upon which dues have been collected by the Crown, the sum of thirty-three cents on each one thousand feet, board measure, of saw logs, and four dollars on each one thousand cubic feet of square or waney timber, and the Lieutenant-Governor in Council may make regulations for ascertaining and determining the persons from time to time to receive the payments and the sums to be paid. 53 V. c. 6, s. 1.

Payment by
Crown to
patentees of
part of dues.

16. Nothing contained in this Act or in *The Free Grants and Homestead Act* of 1868, or in the Act passed in the thirty-seventh year of Her Majesty's reign, and chaptered 23, or in any other Act passed by the Legislature of this Province, or within its legislative authority, shall be held to have in any way restricted or to restrict the authority of the Commissioner of Crown Lands to grant licenses to cut timber on lots located or sold under *The Free Grants and Homestead Act of 1868*, or under this Act, and on the contrary it is hereby declared that the Commissioner, ever since the passing of *The Free Grants and Homestead Act of 1868*, had under chapter 23 of the Consolidated Statutes of Canada, intituled *An Act respecting the Sale and Management of Timber on Public Lands*, under chapter 26 of *The Revised Statutes of Ontario, 1877*, and under chapter 28 of *The Revised Statutes of Ontario, 1887*, and now has under chapter 32 of these Revised Statutes, full authority to grant licenses to cut timber on lots located or sold under *The Free Grants and Homestead Act of 1868*, or under this Act. R. S. O. 1887, c. 25, s. 13.

Acts relating
to free grants
not to affect
powers of the
Commissioner
of Crown
Lands to grant
timber licenses
on lots located
in Free Grant
territory.
31 V. c. 8.

Licenses heretofore granted confirmed.

31 V. c. 8.

17. Every license heretofore issued whether the same has expired or is still current, and every license which may be hereafter issued to cut timber within the limits of any territory appropriated as Free Grant Territory, shall be deemed to have been and to be good and valid in all respects whatsoever, for the period for which the same was or may be granted, notwithstanding the patent for lands included therein may in the meantime have been issued; and every license shall be taken to have conferred, and to confer upon the holder thereof, the right to cut timber on the lands included therein until its expiration, whether the lands were or are located or sold under *The Free Grant and Homestead Act of 1868*, or were or are unlocated or unsold, subject however to the conditions, regulations and restrictions specially applicable to the said Free Grant Territory, or to the said lots so sold or located as may have been heretofore or may be hereafter made by the Lieutenant-Governor in Council in respect of the payment of timber dues or otherwise, and subject also to the exceptions or restrictions contained in the license; but no license shall confer the right to cut any other than pine timber upon lands which have been located or sold in the said territory prior to the date of the license unless the location or sale has been heretofore or is hereafter cancelled. R. S. O. 1887, c. 25, s. 14.

Act not to apply to cases adjudicated before 2nd March, 1877, or pending on 28th Dec., 1876

18. The next preceding two sections shall not apply to any case adjudicated upon by any Court of this Province, on the 2nd day of March, 1877 or to any case that was pending on the 28th day of December, 1876. R. S. O. 1887, c. 25, s. 15.

ALIENATION AND EXEMPTION FROM DEBT.

Land not to be alienated, etc., before issue of patent.

19. Neither the locatee, nor any one claiming under him, shall have power to alienate (otherwise than by devise) or to mortgage or pledge any land located as aforesaid, or any right or interest therein before the issue of the patent. R. S. O. 1887, c. 25, s. 16.

After issue of patent, alienation, etc., to be by deed of locatee and wife jointly.

20. Except as provided in the next section, no alienation (otherwise than by devise), and no mortgage or pledge of the land, or of any right or interest therein by the locatee after the issue of the patent, and within twenty years from the date of the location, and during the life-time of the wife of the locatee, shall be valid or of any effect, unless the same be by deed in which the wife of the locatee is one of the grantors with her husband, nor unless such deed is duly executed by her. Provided that where a transfer or charge of land registered under *The Land Titles' Act* is made such transfer or charge may be made without seal. R. S. O. 1887, c. 25, s. 17; 52 V. c. 20, s. 3.

Rev. Stat. c. 138.

21.—(1) Where the wife of a locatee is a lunatic or of unsound mind and confined as such in a lunatic asylum, or where the wife of any such locatee has been living apart from her husband for two years under such circumstances as by law disentitle her to alimony, the locatee may at any time after the issue of the patent apply to a Judge of the High Court, and if the Judge approves, he may by an order made in a summary way, upon such evidence as to the Judge seems meet, and either *ex-parte* or upon notice (to be served personally unless the judge otherwise directs) dispense with the concurrence of the wife for the purpose of conveying or mortgaging lands located under this Act. 52 V. c. 7, s. 1.

Conveyance of lands by locatee without concurrence of wife under certain circumstances

(2) Where the wife of a locatee has not been heard of for seven years under such circumstances as raise a legal presumption of death, the locatee may apply to a Judge of the High Court, and the Judge may make an order *ex-parte* in a summary way, upon such evidence as to the Judge seems meet, dispensing with the concurrence of the wife for the purpose of conveying or mortgaging lands located as aforesaid. 52 V. c. 7, s. 2.

In cases where presumption of death of wife exists.

22. The order may contain conditions or directions for the benefit of the children of the locatee if the Judge sees fit, and, subject to such conditions and directions (if any), the order shall operate to bar the right, title and interest of the wife in and to the land located as aforesaid, as if she being alive and of sound mind had been one of the grantors with her husband, and had duly executed the conveyance or mortgage. 52 V. c. 7, s. 3.

Conditions for benefit of children.

23. Every patent to be issued for land located as aforesaid shall state in the body thereof the name of the original locatee of the land, and the date of the location, and that the patent is issued under the authority of this Act. R.S.O. 1887, c. 25, s. 18.

Patents to state date of location, etc.

24. On the death of the locatee, whether before or after the issue of the patent for land so located, all his then right and interest in and to the land shall descend to and become vested in his widow during her widowhood in lieu of dower, in case there be a widow surviving the locatee; but the widow may elect to have her dower in the land in lieu of the provision aforesaid. R.S.O. 1887, c. 25, s. 19.

On death of locatee widow to have estate during her widowhood.

Widow may elect to have her dower.

25.—(1) No land located as aforesaid, nor any interest therein, shall in any event be or become liable to the satisfaction of any debt or liability contracted or incurred by the locatee, his widow, heirs or devisees, before the issuing of the patent for the land.

Exemption from liability for debt before issue of patent.

(2) After the issuing of the patent for any land, and while the land or any part thereof, or interest therein, is owned by the locatee or his widow, heirs or devisees, such land

Exemption after issue of patent.

part or interest, shall during the twenty years next after the date of the location be exempt from attachment, levy under execution, or sale for payment of debts, and shall not be or become liable to the satisfaction of any debt or liability contracted or incurred before or during that period, save and except a debt secured by a valid mortgage or pledge of the land made subsequently to the issuing of the patent. R. S. O. 1887, c. 25, s. 20.

Exemption
not to extend
to taxes.

26. Nothing in this Act shall be construed to exempt the land from levy or sale for rates or taxes heretofore or hereafter legally imposed. R. S. O. 1887, c. 25, s. 21.

WAIVER OF CONDITIONS AND SUMS DUE IN CERTAIN CASES.

Lands cleared,
fenced, etc.,
out of the
former Set-
tlers' Home-
stead Fund
under 34 V.
c. 5.

31 V. c. 8.

27.—(1) Every parcel of land subject to the provisions of chapter 5 of the Acts passed in the 34th year of Her Majesty's Reign, intituled *An Act to encourage Settlement in the Free Grant Territory*, and the Act amending the same passed in the 37th year of Her Majesty's reign and chaptered 21, shall continue to be subject thereto, and to this Act, and to any regulations made or to be made by Order in Council under *The Free Grants and Homestead Act of 1868*, or under this Act, except so far as such regulations and provisions are varied by or are inconsistent with the said first-mentioned Act and the amendments thereto.

Application
of s. 8, limited.

(2) So much of section 8 of this Act as relates to building a house shall not apply to such parcel after clearance, fencing and erection thereon under the said first mentioned Act and the amendments thereto. R. S. O. 1887, c. 25, s. 22 (1, 2).

Remission of
dues from
settlers in
Ryerson and
Spence.

(3) The patents for the lands in this section mentioned or referred to may issue notwithstanding any arrears of payments of the expenses of clearing, fencing and erection of buildings thereon, all sums due Her Majesty in respect of such clearing, fencing and building by locatees in the townships of Ryerson and Spence, in the district of Parry Sound, amounting to \$7,304 principal, together with any interest thereon, having been remitted. 53 V. c. 6, s. 6.

Lieutenant-
Governor
may remit
sums due by
settlers in
Free Grant
Townships.

28. The Lieutenant-Governor in Council may remit the sums due to the Crown in respect of their lands by *bona fide* settlers in all the Free Grant Townships who were in occupation of their lands on the second day of March, 1872, and place the settlers in the same position as those who settled in the Free Grant Townships under the Free Grant Regulations. R. S. O. 1887, c. 25, s. 23.

Commissioner
of Crown
Lands may be
empowered to
make remis-
sions.

29. The Lieutenant-Governor in Council may confer upon the Commissioner of Crown Lands authority to make the remissions in the next preceding section mentioned, subject to the provisions thereof and of any Order in Council not inconsistent therewith. R. S. O. 1887, c. 25, s. 24.

CHAPTER 30.

An Act respecting Free Grants and Homesteads to Actual Settlers on Public Lands in the District of Rainy River.

WHEREAS under instructions from the Department Preamble.
of the Interior of Canada, certain townships have been surveyed in the Rainy River District, the lots immediately upon the bank of Rainy River having a width of ten chains fronting the river and a varying depth, and the remaining lands so surveyed being subdivided into sections of one mile square, and quarter sections of one hundred and sixty acres, with road allowances around each section; and whereas a number of settlers have gone into occupation of the lands so surveyed, and it is expedient to adopt said surveys and otherwise provide for the settlement of the lands in question.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Rainy River Free Grants and Homesteads Act.*" Short title. R. S. O. 1887, c. 26, s. 1.

2.—(1) Except as in this section is provided the said surveys Former surveys adopted.
are hereby adopted and legalized, and the Department of Crown Lands is authorized to continue such system of survey within the District of Rainy River, so far as may be deemed expedient. R. S. O. 1887, c. 26, s. 2.

(2) The road allowances in the townships in the said District of Rainy River shall be and are hereby declared to be Width of road allowances laid out by Department of Interior reduced.
one chain, or sixty-six feet, in width, said chain allowance to be that lying immediately north and east, respectively, of the lines of survey run upon the ground in the original survey. 58 V. c. 5, s. 1.

(3) The strips of land formerly forming part of the road allowances shall be detached therefrom and attached to and form part of the quarter-sections or lots, as the case may be, immediately adjoining said strips of land on the east and north thereof. 58 V. c. 5, s. 2. Lands detached to form part of adjoining quarter-sections or lots.

Present quarter-section posts or lot posts to remain.

(4) The quarter-section posts or lot posts intended to define on the ground the limits of the quarter-sections or lots in the said townships shall continue to be the governing points, notwithstanding the addition hereby made to the respective quarter-sections or lots. 58 V. c. 5, s. 3.

Appropriation of lands for settlement.

3. The Lieutenant-Governor in Council may appropriate any lands in the Rainy River District considered suitable for settlement and cultivation, and not being mineral lands or pine timber lands, as free grants to actual settlers, under such regulations as shall from time to time be made by Order in Council not inconsistent with the provisions of this Act. R. S. O. 1887, c. 26, s. 3.

Application of R. S. O. c. 29, to this Act.

4. *The Free Grants and Homesteads Act*, saving and excepting as is hereinafter provided, and so far as the same is not inconsistent with the provisions of this Act, shall apply to lands opened for settlement under this Act. R. S. O. 1887, c. 26, s. 4, part.

Free grants to heads of families.

5. The male, or sole female, head of a family with children under eighteen years of age residing with him, or her, may be located for a free grant to the extent of one hundred and sixty acres, or a quarter section. R. S. O. 1887, c. 26, s. 4 (1).

Free grants to males 18 years of age.

6. A male of the age of eighteen years, without children may be located for a free grant to the extent of one hundred and twenty acres, or a half quarter section, together with an adjoining quarter quarter section. R. S. O. 1887, c. 26, s. 4 (2).

Purchase of locations for children.

7. In addition to location every head of a family having children under eighteen years of age residing with him, or her, may purchase at the time of location an adjoining half quarter section, or eighty acres, at \$1 per acre, payable one-fourth cash and the balance in three equal annual instalments with interest. R. S. O. 1887, c. 26, s. 4 (3).

Purchase of locations by males 18 years of age.

8. A male of the age of eighteen years, without children entitled to locate, may purchase at the time of location an adjoining half quarter section, or eighty acres, at \$1 per acre, payable one-fourth cash, and the balance in three equal annual instalments with interest. R. S. O. 1887, c. 26, s. 4 (4).

Issue of patents.

9. Patents for lands located and purchased under this Act may issue at the expiration of three years from the date of location and purchase. R. S. O. 1887, c. 26, s. 4 (5).

Sale to person who has made improvements.

10. Where a person has, previous to the passing of this Act, made substantial improvements on two or more adjoining lots, and the lots contain more land than the person is entitled under this Act to locate and purchase, the Commissioner of

Crown Lands may sell to such person, at \$1 per acre, such additional quantity of land as may, under the circumstances, seem just and equitable. R. S. O. 1887, c. 26, s. 4 (6).

11. In case a person has occupied and made the required improvements upon one or more lots of land before the passing of this Act, the Commissioner of Crown Lands may, after location and purchase as hereinbefore provided, issue the patent therefor without waiting for the expiration of three years. R. S. O. 1887, c. 26, s. 4 (7).

Issue of patents to persons having made improvements.

12. Pine trees growing or being upon any lands located or purchased under this Act, and gold, silver, copper, lead, iron or other mines, or minerals, shall be considered as reserved from the location or purchase, and shall be the property of Her Majesty, except that the locatee, or those claiming under him, may cut and use such trees as may be necessary for the purpose of building, fencing and fuel, on the land so located or purchased, and may also cut and dispose of all trees required to be removed, in actually clearing the land for cultivation, but no pine trees (except for the necessary building, fencing, and fuel as aforesaid) shall be cut beyond the limit of the actual clearing before the issuing of the patent; and pine trees so cut and disposed of (except for the necessary building, fencing and fuel as aforesaid) shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or saw logs. R. S. O. 1887, c. 26, s. 4 (8).

Reservation of pine trees, mines and minerals.

13. Trees remaining on the land at the time the patent issues shall pass to the patentee. R. S. O. 1887, c. 26, s. 4 (9).

Trees to pass to patentee.

[R. S. O. 1887, cap. 26, was brought into force on the 18th day of February, 1889, by proclamation of the Lieutenant-Governor in Council]

CHAPTER 31.

An Act respecting the Heir, Devisee and Assignee Commission.

INTERPRETATION, s. 1.
 HEIR, DEVISEE AND ASSIGNEE COM-
 MISSION, ss. 2, 3.
 JURISDICTION, ss. 4-8.
 CLERK, s. 9.
 SITTINGS, s. 10.
 PROCEDURE ON CLAIMS, ss. 11-27.
 MORTGAGES BEFORE PATENT, s. 28.

FEEs.
 List of, s. 29.
 Fees to persons taking affidavits,
 ss. 30, 31.
 CERTIFIED COPIES OF PROCEEDINGS
 TO BE EVIDENCE, ss. 32, 33.
 RIGHT TO OBTAIN A PATENT MAY BE
 ASSIGNED, ss. 34.
 RULES AND FORMS, s. 35.

HER MAJESTY, by and with the advice and consent of
 the Legislative Assembly of the Province of Ontario,
 enacts as follows:—

INTERPRETATION.

Interpreta-
 tion.

1. Where the following words occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

“Heir,”
 “Devisee,”
 “Assignee.”

1. “Heir,” “devisee,” or “assignee” shall be understood to include the heirs, devisees, or assignees of any heir, devisee, or assignee, to any degree; and

“Lands.”

2. “Lands,” shall be understood to mean any lot or lots, piece or parcel of land, of what extent soever, to which a claim may be made under this Act. R. S. O. 1887, c. 27, s. 1.

HEIR, DEVISEE AND ASSIGNEE COMMISSION.

Commis-
 sioners for the
 purpose of
 this Act.

2. The present Heir, Devisee and Assignee Commission and the Commissioners appointed thereby shall continue subject to the provisions of this Act, and the Lieutenant-Governor may, from time to time, issue Commissions under the Great Seal, to the Judges of the Supreme Court of Judicature for Ontario, and to such and so many other persons as he may think fit; and the said Commissioners shall be styled and known as “The Heir, Devisee and Assignee Commissioners.” R. S. O. 1887, c. 27, s. 2.

3. Such of the said Commissioners as were appointed on or before the seventh day of March, 1879, shall be paid for every year out of the Consolidated Revenue Fund of this Province, the sum of \$1,000 each, to be paid quarterly on the last days of each of the months of March, June, September and December in each year, free and clear from all taxes and deductions whatever, and so in proportion for any broken period. R. S. O. 1887, c. 27, s. 3.

JURISDICTION.

4. The Commissioners may ascertain, determine and declare, in all cases brought before them under this Act, who is the party to whom the patent ought to issue for the lands to which the claims respectively relate. R. S. O. 1887, c. 27, s. 4.

5. The Commission and Commissioners shall, with respect to claims to lands within Ontario vested in the Crown, for which no patent has issued, and for which the patents are to be issued by the Government of Canada, have the same jurisdiction and powers, and the proceedings by and before the Commission and Commissioners shall be the same as such jurisdiction, powers and proceedings prior to the coming into force of *The British North America Act, 1867*. R. S. O. 1887, c. 27, s. 5.

6. Where the said Commissioners adjudicate in respect of lands vested in the Crown, for which patents are to be issued by the Government of Canada, they shall report their decision as to such lands to His Excellency the Governor-General in Council. R. S. O. 1887, c. 27, s. 6.

7. Any three of the Commissioners (a Judge of the Supreme Court of Judicature being one,) shall be a *quorum*, and whenever the Commissioners are empowered or directed to do or perform any act, such act may be done or performed by a *quorum* of the Commissioners. R. S. O. 1887, c. 27, s. 7.

8. Any act herein authorized or directed to be performed by one Commissioner may be so performed either in or out of the period appointed for the sittings of the Commissioners. R. S. O. 1887, c. 27, s. 8.

CLERK.

9. The Commissioners may appoint a fit person to be their Clerk. R. S. O. 1887, c. 27, s. 9.

SITTINGS.

10. The sittings of the Commissioners shall be holden at the City of Toronto, and shall commence on the first Monday in January and the first Monday in July in each year, and con-

tinue for thirteen days next following the said days respectively, Sundays and holidays excepted, and such further time as the Commissioners may direct, and it shall not be necessary to adjourn from day to day. R. S. O. 1887, c. 27, s. 10.

PROCEDURE ON CLAIMS.

What claims may be brought before the Commissioners.

11. Every person claiming lands within Ontario for which no patent has issued, as being the heir, devisee or assignee, of the original nominee of the Crown, or as having derived a title or claim to such lands from or through any heir, devisee or assignee, may bring his claim before the Commissioners at their sittings, either personally or by his agent or solicitor, and produce before the Commissioners all such documents, proofs and evidence as he may have to adduce in support of such claim; and the evidence may be given *viva voce* before the Commissioners, or by written affidavits or affirmations, sworn or affirmed before any one of the Commissioners, or before any person specially appointed to receive the same by the Commissioners, or before the Judge of any County Court, or any Clerk of the Peace, or Notary Public or Commissioner for taking affidavits in the High Court each of whom may receive and administer the same. R. S. O. 1887, c. 27, s. 11.

Evidence.

Before whom sworn.

Certified copies of documents as evidence.

12. Every certificate of the Commissioner of Crown Lands or of the Clerk of the Executive Council, or copies, certified by them respectively, of documents in their custody, shall be received in evidence before the Commissioners. R. S. O. 1887, c. 27, s. 12.

Summoning witnesses, parties, etc., for examination.

13. The Commissioners may summon before them, by summons under the hand of any one of them, either the claimant or any party interested in the case, or any other person whom they deem it expedient to examine as a witness or whom they have reason to believe to be in possession of any document by the production of which the ends of justice may be better attained; and may require the claimant or party, or the witness, to submit to such oral examination upon oath, or to answer on oath and to sign his answers to interrogatories or cross-interrogatories in writing, or to produce such books, papers or documents in his possession, as to the Commissioners appears requisite. R. S. O. 1887, c. 27, s. 13.

Mode of examination, production of documents, etc.

Commission to examine witnesses not in Ontario.

14. The Commissioners may cause such interrogatories or cross-interrogatories as they deem requisite to be served upon and answered by any claimant, party or witness, or any witness whose depositions may be produced in evidence before them, and may cause commissions to be issued for the examination of any witness not resident in Ontario, and for requiring such witness to produce such books, papers or other documents as he may have in his possession, and may at their discretion delay the proceedings in the case until the evidence and answers have been adduced and given. R. S. O. 1887, c. 27, s. 14.

15. If a claimant, party or person duly summoned to give evidence, or to produce any book, paper or document, or to answer any interrogatories or cross-interrogatories before the Commissioners, or before any person commissioned by them to receive the same within this Province, wilfully neglects to appear at the time and place appointed in the summons, or appearing, refuses to answer any lawful question, or to produce any document in his possession, he shall forfeit the sum of \$100 to the party at whose instance he has been so summoned or required to answer or to produce such document; and if the claimant or any party interested in the case makes default in answering any interrogatory or cross-interrogatory which he may be duly required to answer, the interrogatory or cross-interrogatory shall be taken *pro confesso* as if his answer had been such as would be most adverse to his own claims or interest. R. S. O. 1887, c. 27, s. 15.

Penalty for neglecting to appear or to answer.

Interrogatory not answered by a party to be taken *pro confesso*.

16. The Commissioners shall not receive or proceed upon any claim until the party by whom, or on whose behalf the same is made (or if the party consist of more than one person, then until some one of such persons), has made and produces before the Commissioners an affidavit or affirmation in writing signed by him, that the claim is just and well founded to the best of his knowledge and belief, and that he is not aware of any adverse claim, or if he is aware of any adverse claim, that he has at least one month before the making of the affidavit or affirmation caused to be served on the party having or supposed to have the adverse claim, notice in writing of his claim and of his intention to bring the same before the Commissioners, and of the time when it is intended to be so brought, and a copy of the notice shall be annexed to the affidavit or affirmation. R. S. O. 1887, c. 27, s. 16.

Affidavit to be made by claimant before his claim shall be received.

17. The Commissioners shall not proceed upon any claim as aforesaid, unless a notice specifying the claim and the name or names of the party claiming, together with the number of the lot of which the lands claimed consist or form part, and of the concession and the name of the township in which the same lies, has been put up in some conspicuous place in the office of the Clerk of the Peace of the County in which the lands are situate, during at least thirty days before the claim comes to be heard before the Commissioners, nor unless a certificate to that effect from the Clerk of the Peace is produced to the Commissioners. R. S. O. 1887, c. 27, s. 17.

Certain public notice to be given before a claim is received.

18. The Clerk of the Peace of every county shall, once in every three months, make a list of the claims so put up, in his office, specifying therein the particulars of the claims in the manner in which they are hereinbefore required to be specified in the notice to be put up, and shall affix the list in some conspicuous part of the court house, or place in which the Courts

Duty of the Clerk of the Peace with regard to such notices.

Fee.

of General Sessions are held for the county, and shall cause the list to be publicly read and proclaimed at each session by the crier in open Court, immediately after the delivery of the charge to the Grand Jury; and for each certificate the Clerk of the Peace may demand and receive the sum of fifty cents, and no more. R. S. O. 1887, c. 27, s. 18.

Extension of time.

19. The Commissioners may defer, delay, or adjourn the proceedings on any claim brought before them, and may give such further or enlarged time for the production of evidence, or for any other purpose relative to such claim, and for the decision thereon, as they may deem expedient for the attainment of the ends of justice. R. S. O. 1887, c. 27, s. 19.

Commissioners to report to the Lieutenant-Governor in Council.

20. After the Commissioners have fully examined any claim, they may either reject or allow the same, as in their judgment the justice and equity of the case requires, without regard to legal forms or to the strict letter of the law or legal rules of evidence, and shall report their decision to the Lieutenant-Governor in Council, and the report shall be final and conclusive (except in the case hereinafter mentioned), and the Lieutenant-Governor in Council shall direct Her Majesty's letters patent under the Great Seal of the Province to issue, for granting the lands in question to the party who has been determined by the decision of the Commissioners to be entitled to the same as representing the original nominee of the Crown. R. S. O. 1887, c. 27, s. 20.

Patent to issue on report.

Effect of the patent with regard to charges, or incumbrances.

21. The letters patent shall have the same and no other effect or operation with regard to any charge, incumbrance, lien, matter or thing, upon or affecting the lands so granted, as letters patent issuing for the same in favour of the original nominee of the Crown would have had, save only as establishing the claim of the party in whose favour they may be granted to the lands to which they relate, as the heir, devisee or assignee of or as otherwise representing the original nominee. R. S. O. 1887, c. 27, s. 21.

Report and patent not to affect any claim to any lands but those mentioned therein.

22. Neither the decision of the Commissioners on any claim nor the issuing of the letters patent on such decision, shall extend to or in any way affect any claim of the said party, or of any other party, to any lands other than those to which such decision expressly relates, and which are mentioned and described in the report and letters patent, but such claim to other lands shall continue and remain as if such decision and report had not been made. R. S. O. 1887, c. 27, s. 22.

Patent not to issue for one month after the report is received.

23. No letters patent shall issue on any decision and report of the Commissioners until after the expiration of one month from the time the report has been transmitted to and marked as received by the Clerk of the Executive Council. R. S. O. 1887, c. 27, s. 23.

24. If, before the expiration of such month, a *quorum* of the Commissioners, from any representation made to them, find reason to believe that the decision and report were obtained by surprise or erroneously made in any respect, and that justice requires that the issuing of the letters patent should be stayed, then such *quorum* of the Commissioners, although not then the regular period of their sitting, may report accordingly to the Lieutenant-Governor in Council, and the issuing of the letters patent shall be thereupon stayed until the Commissioners again report upon the case, and the Commissioners may rehear the case or let in any new claim and receive or insist upon any new evidence as to them may appear expedient to enable them to do justice in the case, and may thereafter decide and report thereon as if no prior decision and report had been made, and with like effect. R. S. O. 1887, c. 27, s. 24.

Patent may be stayed if the report has been obtained by surprise, etc.

Commissioners may rehear the case.

25. If, under the circumstances of such case, it appears to the Commissioners fair and right so to do, they may allow to the party in whose favour the first decision and report were made, such costs against the party at whose instance the case has been again taken into consideration as they may deem just and reasonable; or they may, in case of fraud or wilful wrong in the conduct of such party, award costs in like manner against him to the party in whose favour the subsequent decision and report are made. R. S. O. 1887, c. 27, s. 25.

Costs occasioned by rehearing to be in the discretion of the Commissioners.

26. In case land for which no patent has issued is at any time described as granted in any schedule furnished by the Commissioner of Crown Lands to the Treasurer of any County in Ontario, under the provisions of any law concerning the collection of local taxes or assessments, and is afterwards sold for arrears of such local taxes or assessments, and in case the period allowed by law for the redemption of the lands has expired, the purchaser, or the heir, devisee or assignee of the purchaser may claim the same before the Commissioners aforesaid, and the purchaser shall thereupon, for all the purposes of this Act, be considered as an assignee of the original nominee of the Crown, and his claim shall be acted on and dealt with accordingly. R. S. O. 1887, c. 27, s. 26.

Purchasers of unpatented lands sold for taxes may claim patent before the Commissioners.

27. In all cases under this Act in which a witness duly appears to give evidence before the Commissioners, or before any person appointed by them to examine or to receive the testimony or deposition of the witness, the Commissioners may order and direct the party at whose instance the witness has been summoned, or his testimony or depositions have been taken, to allow to the witness for his loss of time and expenses such sum as the Commissioners may deem equitable, which order the party shall obey, or in default, the sum shall be recoverable from him by action in any Court having jurisdiction in civil cases to a like amount, due regard being had to the limits of the local jurisdiction of such Court. R. S. O. 1887, c. 27, s. 28.

Costs allowed to witness.

MORTGAGES.

Effect of mortgages, etc., granted before the issue of the letters patent.

Rev. Stat.
c. 109.

28. In case the original nominee of the Crown, or any person through whom any party obtaining letters patent for lands under this Act derived his claim, had before the allowance of the claim, and before the issue of the letters patent, granted any mortgage, incumbrance or lien on the lands, by any instrument by which the same would have been validly granted if the letters patent had issued in favour of the grantor before the date of the instrument, the same may, except as provided in section 76 of *The Unorganized Territory Act*, be registered in the office of the Registrar for the Registry Division in which the lands lie, subject to the same conditions, and with the same effect and no other, and shall have the same force and effect, and no other, as if letters patent for the land had, before the execution of the instrument, been issued in favour of such grantor. R. S. O. 1887, c. 27, s. 27.

FEES.

Fees.

Rev. Stat.,
c. 25.

29. The following fees in respect of proceedings had under this Act shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps*:

1. For filing every petition, twenty cents ;
2. On every claim entered and received, fifty cents ;
3. For setting down a claim for hearing, fifty cents ;
4. On the hearing of a claim, one dollar ;
5. On every claim allowed, fifty cents ;
6. For making up a report on the same, two dollars ;
7. For every certificate of the allowance of a claim, twenty-five cents ;
8. For a copy of the order respecting a claim, twenty-five cents ;
9. For each summons for the attendance of any witness or witnesses, forty cents ;
10. For every commission for the examination of witnesses, two dollars ;
11. For a certified copy of any paper or document in the custody of the Clerk of the Commissioners, twenty-five cents for the certificate, and at the rate of ten cents for every one hundred words in such copy ;

Unenumerated services.

12. And such reasonable fees for any service not herein specially mentioned or included therein, as the Commissioners may from time to time direct. R. S. O. 1887, c. 27, s. 29.

Fees for taking affidavits.

30. Every person, authorized by section 11, to take affidavits in proceedings under this Act (not being one of the Commissioners), shall for every affidavit or affirmation so taken before him be entitled to demand and recover from the party requiring him to take the same the sum of twenty-five cents, and no more. R. S. O. 1887, c. 27, s. 30.

Recovery of such fees.

31. The fees may be required to be paid before the service for which they are granted is performed, or if not so required, may be recovered in the manner hereinbefore appointed with regard to the sum allowed to a witness. R. S. O. 1887, c. 27, s. 31.

MISCELLANEOUS.

32. The copy of any order, report or decision made by the Commissioners under this Act, certified by their Clerk and countersigned by one of the Commissioners, shall be received in all civil actions in any Court in this Province, as evidence of the making of the order, report or decision, in the manner and form and according to the tenor thereof as set forth in the copy. R. S. O. 1887, c. 27, s. 32.

Certified copies of proceedings and orders of the Commissioners to be received in evidence.

33. It shall not be necessary in an action to prove the signatures of the Clerk or Commissioner, if the party intending to produce the same has given due notice of his intention to an adverse party according to the course and practice of the Court, unless the adverse party has afterwards in like manner signified his intention to dispute the signatures, or either of them, in which case it shall be requisite to prove the same, and the costs attending the proof may, in the discretion of the Court, be allowed to the party making proof, whatever be the result of the action. R. S. O. 1887, c. 27, s. 33.

In what cases only it shall be necessary to prove the certificate.

Costs.

34. Any person whose right to obtain a patent for land has been established by the Commissioners, under this or any former Heir, Devisee and Assignee Act, may, by an instrument in writing, assign, transfer and convey his right and interest to or in the land; and the assignment, as well as all subsequent assignments, may be registered agreeably to the provisions of *The Public Lands Act*; and the last assignee shall be entitled to a patent upon proving compliance with all the conditions to which the original location was subject. R. S. O. 1887, c. 27, s. 34.

Right to obtain a patent, assignable in certain cases.

Assignment may be registered under Rev. Stat. c. 28.

35. The Commissioners for the time being may from time to time make and establish rules and forms, with regard to proceedings to be had before them, and to such notices, papers and other documents as may be required in the conduct of the proceedings, as to them appear expedient for the better attainment of the purposes of justice. R. S. O. 1887, c. 27, s. 35.

Rules and forms of proceedings may be established by the Commissioners.

CHAPTER 32.

An Act respecting Timber on Public Lands.

SHORT TITLE, s. 1.	TOWNSHIPS ENTITLED TO PERCENTAGE
LICENSES TO CUT TIMBER ON PUBLIC	OF TIMBER DUES, SS. 10-13.
LANDS, SS. 2-6.	OBLIGATIONS OF LICENSEES, SS. 14-18.
GOVERNMENT ROAD ALLOWANCES,	LIABILITY OF PERSONS CUTTING TIM-
TO BE DEEMED UNGRANTED	BER WITHOUT A LICENSE, SS.
LANDS, s. 7.	19-21.
RIGHTS OF LICENSEE TO TIMBER ON	SEIZURE OF TIMBER BY THE CROWN,
ROAD ALLOWANCE, s. 8.	SS. 16, 17, 22-25.
BY-LAWS OF MUNICIPALITIES IN	FORFEITURE FOR FRAUD, s. 26.
RELATION TO TIMBER ON ROAD	AGREEMENTS FOR SALE OF TIMBER
ALLOWANCES NOT TO PREVAIL	FOR PULP, s. 27.
AGAINST LICENSE, s. 9.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Crown Timber Act.*"

LICENSES TO CUT TIMBER ON PUBLIC LANDS.

Commissioner
of Crown
Lands may
grant licenses
to cut timber
on Public
Lands.

2.—(1) The Commissioner of Crown Lands, or any officer or agent under him authorized to that effect, may grant licenses to cut timber on the ungranted lands of the Crown, at such rates, and subject to such conditions, regulations and restrictions as may from time to time be established by the Lieutenant-Governor in Council, and of which notice may be given in the *Ontario Gazette*.

Period of
license.

Conflicting
licenses.

(2) No license shall be so granted for a longer period than twelve months from the date thereof; and if, in consequence of incorrectness of survey, or other error, or cause whatsoever, a license is found to comprise lands included in a license of a prior date, the license last granted shall be void in so far as it interferes with the one previously issued, and the holder or proprietor of the license so rendered void shall have no claim upon the Government for indemnity or compensation by reason of such avoidance. R. S. O. 1887, c. 28, s. 1.

Operation of
license.

3.—(1) The licenses shall describe the lands upon which the timber may be cut, and shall confer for the time being on the nominee the right to take and keep exclusive possession of the lands so described, subject to such regulations and restrictions as may be established.

(2) The licenses shall vest in the holders thereof all rights of property whatsoever in all trees, timber and lumber cut within the limits of the license during the term thereof, whether the trees, timber and lumber are cut by authority of the holder of the license, or by any other person, with or without his consent.

(3) The licenses shall entitle the holders thereof to seize in revendication, or otherwise such trees, timber or lumber where the same are found in the possession of any unauthorized person, and also to institute any action against any wrongful possessor or trespasser, and to prosecute all trespassers and other offenders to punishment and to recover damages if any

(4) All proceedings pending at the expiration of any license may be continued to final termination as if the license had not expired. R. S. O. 1887, c. 28, s. 2.

4. The Commissioner of Crown Lands has and has had since the 27th day of May, 1869, authority to grant or renew timber licenses covering or including lands sold by the Crown and the timber thereon under *The Public Lands Act*, prior to the completion of settlement duties upon such lands and to the filing of the proof of the completion of such settlement duties in the Department of Crown Lands. 54 V. c. 7, s. 3.

Grants of timber licenses prior to completion of settlement duties legalized

5. All timber licenses which have heretofore issued or been renewed or which may hereafter issue or be renewed, covering or including any such lands and the timber thereon prior to the completion of settlement duties upon the lands sold by the Crown and to the filing of the proof of the completion of such settlement duties in the Department of Crown Lands, are declared to have been and shall be as good and valid and effective licenses to all intents and purposes as though issued or renewed prior to the expiry of three years from the date of sale of such lands. 54 V. c. 7, s. 4.

Licenses confirmed.

6. Nothing in the two next preceding sections contained shall affect any suit, proceeding or litigation pending on the 20th day of April, 1891. 54 V. c. 7, s. 5.

Pending proceedings not affected.

TIMBER ON ROAD ALLOWANCES.

7. Every Government road allowance included in any Crown timber license, heretofore granted, or which may hereafter be granted under section 2 of this Act, shall be deemed and taken to be and to have been ungranted lands of the Crown, within the meaning of said section, and liable as such to be included in the license. R. S. O. 1887, c. 26, s. 3.

Government road allowances to be deemed ungranted lands.

8. The licensee or nominee named in any license shall be deemed and taken to have, and to have had, all the rights

Rights of licensee.

in respect of every such road allowance, and the trees, timber and lumber thereon, or cut thereon, as were, or by section 2 of this Act, might be conferred upon him in respect of any other Crown lands embraced in such license, and the trees, timber and lumber thereon, or cut thereon, except that he shall not be entitled to take or keep exclusive possession of such road allowance. R. S. O. 1887, c. 26, s. 4.

By-laws not to prevail against license.

9. No by-law passed, or to be passed by any Municipal Council for preserving, selling, or otherwise appropriating or disposing of the timber or trees, or any part thereof, on a Government road allowance included in any license, shall be deemed or taken to have had or have any force or effect against such license. R. S. O. 1887, c. 28, s. 5.

Township Councils entitled to percentage of timber dues.

10. In case the council of any township, organized as a separate municipality, or the council of any united townships have passed, or hereafter pass, a by-law for preserving or selling the timber or trees on the Government road allowances within such township, or united townships, and included in any license, the corporation of such township or united townships shall be entitled to be paid out of the consolidated revenue fund of this Province a sum equal to two per centum of the dues received by Her Majesty for or in respect of the timber or saw-logs which, during the existence of the by-law, were cut within the township, or united townships, under the authority of the license; but no corporation shall be entitled to such percentage of the dues received for timber or saw-logs cut during the times or seasons when timber, or trees on such road allowances were cut or removed, for which cutting or removal the corporation had, before the 15th day of February, 1871, obtained a verdict against such licensee or nominee. R. S. O. 1887, c. 28, s. 6.

Proviso.

Terms on which Councils may obtain the percentage.

11. No Municipal Corporation shall be entitled to such payment as aforesaid, unless a certified copy of the by-law passed or to be passed as aforesaid, accompanied by an affidavit of the Clerk or Reeve of the Corporation, verifying the copy, and the date of the passing of the by-law, is filed in the Department of Crown Lands at Toronto within six months from the passing of the by-law; and the affidavit may be made or taken before any person or officer who, under sections 44 or 45 of *The Public Lands Act*, is authorized to take the affidavits in those sections mentioned. R. S. O. 1887, c. 28, s. 7.

Rev. Stat. c. 28.

Councils to expend percentage on highways.

12. All moneys to be paid, as aforesaid, to any municipal corporation shall be expended in the improvement of the highways situate within the township or within the senior or junior township in respect of which such moneys were paid. R. S. O. 1887, c. 28, s. 8.

13. The percentage to which the junior township or townships of such united townships may be entitled, shall only be in respect of the dues received upon timber or trees which shall be cut after the 30th day of April, 1881. R. S. O. 1887, c. 28, s. 9.

Time from which junior townships entitled to percentage of dues.

[See Chap. 29 secs. 13-18, as to the right of the Crown, to grant Timber Licenses on Free Grant Lands.]

OBLIGATIONS OF PERSONS OBTAINING LICENSES.

14. It shall be incumbent upon all persons cutting saw-logs on Crown Lands to cause to be kept in each shanty, camp, or lumbering establishment such records and books as may be required by the Crown Lands Department, which records and books shall be open at all times to the inspection of any Crown timber agent, Crown timber ranger, or other officer of the Crown Lands Department, and shall at the end of the season be attested under oath by the person who has made the entries therein and handed to the officer of the Department authorized to receive the same. 53 V. c. 7, s. 4.

Persons cutting saw-logs to keep record and deliver same to officer of Crown Lands Department.

15. Every person obtaining a license shall, at the expiration thereof, make to the officer or agent granting the same, or to the Commissioner of Crown Lands, a return of the number and kinds of trees cut, and of the quantity and description of saw-logs, or of the number and description of sticks of square timber manufactured and carried away under the license; and the statement shall be sworn to by the holder of the license, or his agent, or by his foreman, before a Justice of the Peace; and any person refusing or neglecting to furnish such statement, or evading or attempting to evade any regulation made by Order in Council, shall be held to have cut without authority, and the timber made shall be dealt with accordingly. R. S. O. 1887, c. 28, s. 10.

Returns to be made by persons obtaining licenses.

16.—(1) All timber cut under licenses shall be liable for the payment of the Crown dues thereon, with interest thereon and expenses, so long as and wheresoever the timber or any part of it may be found in Ontario, whether in the original logs or manufactured into deals, boards or other stuff; and when any license holder is in default for, or has evaded the payment of dues to the Crown on any part of his timber or saw logs, such dues interest and expenses may be levied on any other timber or saw logs, or their manufactured product, belonging to such defaulter, cut under license, together with the dues thereon, and interest and expenses incurred; and all officers or agents entrusted with the collection of such dues may follow all timber and seize and detain the same wherever it is found until the dues, interest and expenses are paid or secured. 59 V. c. 12, s. 1.

Following timber cut under license until dues are paid.

Timber removed into Quebec.

(2) Nothing in this Act contained shall be construed to repeal the provisions of section 4 of chapter 23 of the Consolidated Statutes of Canada, as regards timber removed into the Province of Quebec. R. S. O. 1887, c. 28, s. 11 (2).

The giving of bonds or notes not to affect the lien on the timber.

17. Bonds or promissory notes taken for the Crown dues either before or after the cutting of the timber, as collateral security, or to facilitate collection, shall not in any way affect the lien of the Crown on the timber, but the lien shall subsist until the dues are actually discharged. R. S. O. 1887, c. 28, s. 12.

Sale of timber seized for non-payment of dues.

18. If timber so seized and detained for non-payment of Crown dues remains more than two months in the custody of the agent or person appointed to guard the same, without the dues and expenses being paid, the Commissioner of Crown Lands, with the previous special sanction of the Lieutenant-Governor in Council, may order a sale of the timber to be made after sufficient notice; and the balance of the proceeds of the sale, after retaining the amount of dues and costs incurred, shall be handed over to the owner or claimant of the timber. R. S. O. 1887, c. 28, s. 13.

LIABILITY OF PERSONS CUTTING WITHOUT A LICENSE.

Persons cutting timber without license to acquire no rights thereby.

19.—(1) If any person without authority cuts or employs or induces any other person to cut, or assists in cutting timber of any kind on the Crown, Clergy, School or other Public Lands, or removes or carries away, or employs or induces or assists any other person to remove or carry away, merchantable timber of any kind, so cut from the Public Lands aforesaid, he shall not acquire any right to the timber so cut, or any claim to any remuneration for cutting, preparing the same for market, or conveying the same to or towards market. R. S. O. 1887, c. 28, s. 14 (1).

When timber illegally cut cannot be seized, penalty.

(2) When the timber or saw logs made has or have been removed by any person out of the reach of the officers of the Crown Lands Department, or it is otherwise found impossible to seize the same, such person shall in addition to the loss of his labour and disbursements, forfeit a sum of \$3 for each tree other than pine and \$10 for each pine tree which he is proved to have cut or caused to be cut and carried away, and in addition the full value of the timber or logs so cut or caused to be cut and carried away. 59 V. c. 12, s. 2.

By whom penalty recoverable.

(3) Such sum shall be recoverable with costs, at the suit and in the name of the Commissioner of Crown Lands, or resident agent, in any Court having jurisdiction in civil matters to the amount of the penalty.

Burden of proof.

(4) In such cases it shall be incumbent on the party charged to prove his authority to cut; and the averment of the party seizing or prosecuting that he is duly employed, under

the authority of this Act, shall be sufficient proof thereof, unless the defendant proves the contrary. R. S. O. 1887, c. 28, s. 14, (3, 4).

20. Where satisfactory information, supported by affidavit made before a Justice of the Peace or before any other competent party, is received by the Commissioner of Crown Lands, or other officer or agent of the Crown Lands Department, that any timber or quantity of timber has been cut without authority on Crown, Clergy, School or other Public Lands, and describing where the timber can be found, the Commissioner, officer or agent, or any one of them, may seize or cause to be seized in Her Majesty's name, the timber so reported to be cut without authority, wherever it is found, and place the same under proper custody, until a decision can be had in the matter from competent authority. R. S. O. 1887, c. 28, s. 15.

Timber alleged to be unlawfully cut may be seized on a sufficient affidavit, etc.

21. Where the timber so reported to have been cut without authority on the Public Lands, has been made up with other timber into a crib, dam or raft, or in any other manner has been so mixed up at the mills or elsewhere, as to render it impossible or very difficult to distinguish the timber so cut on Public Lands without license from other timber with which it is mixed up, the whole of the timber so mixed shall be held to have been cut without authority on Public Lands, and shall be liable to seizure and forfeiture accordingly, until satisfactorily separated by the holder. R. S. O. 1887, c. 28, s. 16.

As to timber so cut and mixed up with other timber.

SEIZURE OF TIMBER, ETC.

22. Any officer or person seizing timber, in the discharge of his duty under this Act, may in the name of the Crown call in any assistance necessary for securing and protecting the timber so seized. R. S. O. 1887, c. 28, s. 17.

Seizing officer may command assistance.

23. Whenever timber is seized for non-payment of Crown dues, or for any other cause of forfeiture, or any prosecution is brought for any penalty or forfeiture under this Act, and a question arises whether the said dues have been paid on the timber, or whether the timber was cut on other than the Public Lands aforesaid, the burden of proving payment, or on what land the timber was cut, shall lie on the owner or claimant of the timber and not on the officer, who seizes the same, or the party bringing the prosecution. R. S. O. 1887, c. 28, s. 18.

Burden of proof that dues have been paid.

24. All timber seized under this Act shall be deemed to be condemned, unless the person from whom it was seized, or the owner thereof, within one month from the day of the seizure, gives notice to the seizing officer or nearest officer or agent of the Crown Lands Office, that he claims or intends to claim the same; failing notice, the officer or agent seizing shall

Timber seized to be condemned, if not claimed within one month.

report the circumstances to the Commissioner of Crown Lands, who may order the sale of the said timber, by the officer or agent, after a notice on the spot of at least thirty days. R. S. O. 1887, c. 28, s. 19.

Order for delivery of timber to claimant on security being given.

25.—(1) The alleged owner or claimant of the timber seized may, upon at least four days' notice to the Commissioner of Crown Lands apply to the Judge of the County or District Court, or in the Rainy River District to the Stipendiary Magistrate, for an order for the delivery of the timber to the alleged owner or claimant, and the Judge or Stipendiary Magistrate may, on receiving security by bond of the alleged owner or claimant, with two good and sufficient sureties, to be approved by the Commissioner of Crown Lands, or by the agent, in such sum as shall also be approved by the Commissioner or agent to pay double the value of the timber in case of condemnation, direct the delivery of such timber to such alleged owner or claimant.

Delivery of bond.

(2) The bond shall be taken in the name of the Commissioner of Crown Lands to Her Majesty's use, and shall be delivered to and be kept by the Commissioner.

Trying right of seizure.

(3) The Judge or Stipendiary Magistrate may, upon the application of either party, at a time and place to be fixed by him, of which the other party shall have at least seven days' notice, try and determine such seizure, and whether the same was justifiable or otherwise, and shall either condemn the timber or order it to be released.

When seizure upheld.

(4) If the seized timber is condemned as having been cut in trespass or without authority, the same shall be again delivered up to the Commissioner or to the officer or agent of the Department of Crown Lands, and the Commissioner may again take possession thereof and sell and dispose of the same and apply the proceeds thereof to the use of the Crown, or may allow the claimant or alleged owner to have and take the same, upon the payment of such sum, for the use of the Crown as the Commissioner shall fix and determine; if the seized timber is condemned for non-payment of Crown dues, then upon payment to the Commissioner of Crown Lands by the claimant or alleged owner of the unpaid dues with interest thereon and the costs and expenses incurred by the Commissioner, the timber may be surrendered to the claimant or alleged owner, and the bond may be cancelled; otherwise the penalty of the bond shall be enforced and recovered. 59 V. c. 12, s. 3.

When condemned

Forfeiture of timber in case of fraud.

26. Every person availing himself of any false statement or oath to evade the payment of Crown dues, shall forfeit the timber on which dues are attempted to be evaded. R. S. O. 1887, c. 28, s. 21.

27. Any agreement which may be or which has heretofore been entered into, by her Majesty or by the Commissioner of Crown Lands with any person for the supply of wood or timber, to be used in the manufacture of pulp or similar material, to be taken from the lands of the Crown, shall not prevent Her Majesty or the Commissioner of Crown Lands from selling, leasing, granting or otherwise disposing of any of the wood or timber of the Crown not specifically sold to or allotted to such person, or from issuing licenses or permits to other persons to cut and take any wood or timber not specifically sold or allotted as aforesaid, or from selling, leasing, granting or otherwise disposing of any of the lands of the Crown, whether such lands are included in such allotments or agreements or licenses issued in pursuance of them or not; and other agreements may be made with any other persons to cut and take wood or timber from the lands of the Crown for making pulp or for similar or other purposes, without rendering Her Majesty or the said Commissioner of Crown Lands liable in damages in case of the exhaustion of the supply of such wood or timber, or of the inability of any person with whom a prior agreement was made to obtain a sufficient supply thereof during the whole period for which the agreement is to run, or during which the supply of wood or timber is contemplated by any such agreement, unless in respect of any quantity specifically sold to or actually allotted, or the wood and timber upon specified lands actually allotted, or agreed to be allotted to or for such person and no claim or demand against Her Majesty or said Commissioner shall be made or maintained through or by reason of such sale or other disposition as aforesaid. No such agreement as aforesaid shall extend or run beyond the period of twenty-one years from its date. 59 V. c. 12, s. 4.

Agreements
for supplying
wood or tim-
ber from
Crown lands
for manufac-
ture of pulp
and paper.

CHAPTER 33.

An Act to prevent Trespasses to Public Lands.

ENTRY ON CROWN LANDS ONLY BY
SPECIAL LICENSE, s. 1.

COMMISSIONERS MAY BE APPOINTED
TO INVESTIGATE TRESPASSES, s. 2.

PROCEEDINGS AGAINST INTRUDERS,
ss. 3-9.

PUNISHMENT OF PERSONS CUTTING
TREES, QUARRYING STONE, ETC.,
ss. 10-12.

SEIZURE OF TIMBER CUT OR STONE
QUARRIED, s. 13.

EVIDENCE ON INVESTIGATIONS, s. 14.

APPROPRIATION OF MONEY LEVIED
UNDER THIS ACT, s. 15.

PERSONS CHARGED TO BE SUMMONED
TO ANSWER, s. 16.

SHERIFFS, ETC., TO EXECUTE WAR-
RANTS OF COMMISSIONERS, s. 17.

PROTECTION OF COMMISSIONERS
AGAINST VEXATIOUS ACTIONS,
s. 18.

APPEAL FROM COMMISSIONERS, s. 19.

COMMISSIONERS TO BE JUSTICES OF
THE PEACE, *ex-officio*, s. 20.

SPECIAL PROCEEDINGS IN CERTAIN
UNORGANIZED TERRITORY AU-
THORIZED, ss. 21-26.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Entry on
Crown Lands
not to be made
without
special license.

1. No body corporate, and no servant or agent of such body, shall enter into or upon, have, hold, use or enjoy, for any purpose whatever, any land belonging to Her Majesty, without having the license of Her Majesty for such purpose, signified under the hand and seal of the Lieutenant-Governor, or being expressly authorized by statute. R. S. O. 1887, c. 29, s. 1.

Commission-
ers may be ap-
pointed to in-
quire concern-
ing trespasses
committed
upon Crown
Lands.

2. The Lieutenant-Governor may, from time to time, appoint two or more Commissioners, under the Great Seal, to inquire into any complaint made to them, or any one of them, against any person for illegally possessing himself of any land in Ontario, surveyed or unsurveyed, for which no grant, lease, ticket either of location or purchase, or letter of license of occupation, has been issued, either under the Great Seal, or by or from the proper Department of the Provincial Government in that behalf, whether the land be Crown or Clergy Reserve or School Land or however otherwise denominated, or whether held in trust, or in the nature of a trust, for any party whomsoever; and also to inquire into any complaint made to them, or any one of them, against any person for having unlawfully cut down or removed timber, trees, stone or soil, on the land, or for having done other wilful and unlawful injury thereon. R. S. O. 1887, c. 29, s. 2.

3. If the Commissioners, or any one or more of them, upon investigation of the complaint so made, find and determine that the person complained against is unlawfully in possession of such lands, they or any of them may give notice to such person to remove from the occupation thereof within not less than thirty days from service of the notice, and if the person so notified neglects so to remove within the time specified in the notice, the Commissioners, or any one or more of them, may issue a warrant, signed and sealed by them or him, directed to the Sheriff of the County in which the lands are situated, commanding him to eject and remove the person from the lands, which warrant the Sheriff shall execute and carry into effect in like manner as a writ of possession issued by the High Court. R. S. O. 1887, c. 29, s. 3.

Commissioners on finding illegal possession to give notice to intruder to remove within thirty days.

On neglecting to remove, warrant of removal may be issued.

4. If, upon the investigation, it appears to the Commissioners or Commissioner that any person has been actually in possession of the lands or a part thereof, or has, within twelve months next before, claimed to be in possession, or claimed or pretended to have a right to possession, but it nevertheless appears uncertain who is then in actual possession, or whether the person in possession claims to be in possession of his own right, or merely under or on behalf of another, then the Commissioners or Commissioner may give a notice to quit similar to that in the last preceding section mentioned, but directed generally to all persons having or claiming possession of the lands, their tenants, bailiffs and servants, and all others whom it may concern; and if all persons whosoever who have not written authority from the Commissioners, or one of them, to remain upon the lands, do not quit and remove from the same within the time specified in the notice, the Commissioners, or one of them, may issue a warrant of removal, signed and sealed by them or him, directed to the Sheriff of the proper County, commanding him to eject and remove all persons whomsoever from the lands, and the Sheriff shall execute and carry the warrant into effect, as in the preceding section is provided. R. S. O. 1887, c. 29, s. 4.

Commissioners may, in case of doubt, issue a general notice to quit.

Persons disobeying the notice may be removed.

5. Every summons, notice to quit, and warrant of removal shall describe the lands with the same certainty as would be necessary in a deed of conveyance between parties. R. S. O. 1887, c. 29, s. 5.

Summons to contain description of lands.

6. Neither the summons nor the notice to quit need be personally served; it shall be sufficient to deliver the same to the person in actual possession or occupation of the land, and the notice to quit may also be served by leaving the same with the wife of such person on the premises, or with any grown person found thereon, and by putting up in the last case a duplicate notice in some conspicuous place on the premises; and where no grown person is found on the premises, then by putting up one notice in each of four conspicuous places on the premises; but

Service of summons and notice.

no fine shall be imposed on any person except upon personal service of the summons or service on his wife. R. S. O. 1887, c. 29, s. 6.

Writ of removal by continuance may be obtained.

7. If, after the execution of a warrant of removal, special for the removal of particular parties, or general for the removal of all parties found trespassing or intruding upon any lands, the person removed, or other person, returns or enters into or upon the same lands, or if the Sheriff has reason to believe that the person, or any other person, will so return or enter upon the same lands, unless they be protected by process for the prevention thereof, the Sheriff shall with the warrant certify the same into the High Court at Toronto, setting forth such return, entry or intrusion, or his belief that such return, entry or intrusion, will take place unless the lands be protected by process for the prevention thereof, and thereupon the Court may issue a writ of removal by continuance, as nearly as may be in the form of Schedule A to this Act, and, upon a similar return thereto, a second writ, and afterwards, upon similar returns, other writs of a like description, as often as may be necessary for the protection of the lands against intrusion. R. S. O. 1887, c. 29, s. 7.

Writ of removal by continuance may be superseded upon cause shewn.

8. Every person concerned in the proceedings, or shewing an interest entitling him to be heard in that behalf, may obtain from the said Court, a rule to shew cause, which shall be served personally on one or more of the Commissioners, and thereupon the Court may order a *supersedeas* to such writ, after which no further proceedings shall be had upon such writ of removal as aforesaid, or the proceedings of the Commissioners whereon it was founded; but if it be deemed necessary to proceed against such party, or any other, for intrusion or trespass upon the lands, the like proceedings of notice to quit and warrant of removal may be had as at first. R. S. O. 1887, c. 29, s. 8.

Proceedings, if the party again intrudes.

Penalty for re-suming possession.

9. If a person who has been so removed returns and unlawfully resumes occupation of the same lands, or any part thereof, the Commissioners, or any one of them, may, upon complaint and satisfactory proof of the fact, order him to be committed to the Common Gaol of the County for a term not exceeding thirty days, and to pay a fine to Her Majesty, not exceeding \$80. R. S. O. 1887, c. 29, s. 9.

Penalty for unlawfully cutting and removing trees, quarrying, etc.

10. If upon investigation of a complaint made against a person for having unlawfully cut down or removed timber or trees, or quarried or removed stone, or other materials, from the lands aforesaid, the Commissioners, or any one or more of them, find him guilty thereof, the Commissioners or any one or more of them may order him to pay a fine to Her Majesty not exceeding \$80, and in default thereof to be committed to the gaol of the proper County for a period not exceeding three months. R. S. O. 1887, c. 29, s. 10.

11. In all cases of summary conviction under this Act, the same may as of course be removed by *certiorari* into the High Court and thereupon, unless otherwise provided by law, the Court shall, for enforcing the fine, issue, as in the case of other Crown debts, one or more writs of *feri facias* and *capias ad satisfaciendum*, in the nature of the exchequer long writ, as nearly as may be in the form of Schedule B to this Act, and shall from time to time repeat such writs as may be necessary, till the amount has been paid. R. S. O. 1887, c. 29, s. 11.

Removal of convictions by *certiorari*.

Proceedings for the satisfaction of fine imposed.

12. If at the time of the removal of the conviction, the person convicted is in custody under the warrant of the Commissioners, or any one of them, for non-payment of the fine, he shall not be discharged from imprisonment at the end of the time prescribed in such warrant, if the Sheriff then has a writ of *feri facias* and *capias ad satisfaciendum* for the levying of the fine, and is unable to make the same out of the goods and chattels or lands and tenements of such person, but such person shall remain charged in custody upon the writ until the fine is fully paid, as in the case of other Crown debtors similarly charged. R. S. O. 1887, c. 29, s. 12.

Non-discharge of person convicted and in custody.

13. The Commissioners or any one of them may order and cause to be seized and detained timber or trees unlawfully cut down and any stone quarried upon the lands aforesaid, and not removed therefrom, and may afterwards sell and dispose thereof, as instructed from time to time by the Lieutenant-Governor in that behalf. R. S. O. 1887, c. 29 s. 13.

Timber, etc., cut, but not removed, may be seized and sold.

14. The Commissioners or any one of them may summon before them any person as a witness to give evidence on any matter they are authorized to investigate, and may administer to him an oath that he will true answer make to all questions put to him in reference to the matter under investigation. R. S. O. 1887, c. 29, s. 14.

Commissioners may summon and examine witnesses.

15. Moneys and fines collected under this Act shall, after deducting the expenses of collecting, be paid into the hands of the Provincial Treasurer, and form part of the Consolidated Revenue of this Province. R. S. O. 1887, c. 29, s. 15.

Appropriation of moneys levied under this Act.

16. The Commissioner or Commissioners, before entering on the investigation of any charge under this Act, shall summon the party charged to appear before him or them at a place named in the summons, and if the party does not appear, the Commissioner or Commissioners may, upon proof of due service of the summons, proceed to hear and determine the complaint *ex parte*. R. S. O. 1887, c. 29, s. 16.

Hearing *ex parte* on non-appearance of persons accused.

Issue and execution of warrants.

17. The Commissioner or Commissioners acting under this Act, may issue a warrant under his hand and seal or their hands and seals, to any sheriff, gaoler or peace officer of the County wherein the proceeding is had, commanding such sheriff, gaoler or peace officer to carry into effect any order by him or them made within his or their jurisdiction; and such warrants shall be executed by the sheriff, gaoler or peace officer, as are warrants issued by Justices of the Peace. R. S. O. 1887, c. 29, s. 17.

Commissioners entitled to the same protection as Justices of the Peace, etc.

18. The Commissioners and all acting under their authority shall respectively have the same privilege and protection in respect of any action brought against them for any act by them done in the execution of their office, that Justices of the Peace, sheriffs, gaolers or peace officers respectively have, and the Commissioners, when engaged in the execution of their office, and each of them when so engaged, shall have the same power to commit for contempt that Justices of the Peace have in similar cases for contempts against them in the execution of their office. R. S. O. 1887, c. 29, s. 18.

Appeal to lie against judgment of Commissioners.

19. Any person dissatisfied with the judgment or decision of the Commissioners in any of the foregoing cases, may, within three months from the date thereof, appeal to the High Court, having first given to the Commissioners fourteen days' notice in writing of the intention to appeal, in which case the Commissioners shall thereupon transmit to the proper officer of the Court a copy of their judgment and the evidence, and the Court may revise, alter, affirm or annul such decision, make or order further inquiry, or direct an issue to be tried before the Court or a Judge thereof with or without the assistance of a jury, and may make such order respecting costs and other matters as seems reasonable and just; and the judgment of the Court on the appeal shall be conclusive on the party appealing and on the Commissioners. R. S. O. 1887, c. 29, s. 19.

Commissioners and Indian Superintendents to be Justices of the Peace.

20. The Commissioners and each of them shall, for all purposes, and the different Superintendents of the Indian Department shall, for the purposes of the Statute of the Parliament of Canada called *The Indian Act*, by virtue of their office and appointment, and without any other qualification, be Justices of the Peace within the County within which, for the time being, they may be respectively resident or employed as Commissioners or Superintendents. R. S. O. 1887, c. 29, s. 20. 54 V. c. 16, s. 3.

Application to district judge or stipendiary magistrate for summons to vacate crown lands in certain unorganized territory.

21.—(1) When any person is wrongfully or without lawful authority in possession of any public land situate in any of the unorganized portions of the Districts of Algoma, Thunder Bay or Rainy River, or in any portion of the District of Manitoulin, except the island of Manitoulin, or in that part of the

District of Nipissing lying north of the waters of the Mattawa River, the Township of Ferris, Lake Nipissing, and the waters of the French River, and refuses to vacate or abandon possession of the same, the Commissioner of Crown Lands or any officer or agent of the Department of Crown Lands authorized by the Commissioner for that purpose, may, upon affidavit of the facts, apply to the Judge of the District Court, or any Stipendiary Magistrate of the District in which the land lies, for a summons directed to such person calling upon him forthwith to vacate or abandon possession of the said land, or within ten days after service of the said summons to show cause why an order for his removal should not be made. 60 V. c. 7, s. 1, part; s. 8.

(2) It shall be sufficient service of the summons if a copy thereof be left with any grown up person found on the land and another copy be put up in some conspicuous place thereon, and where no grown up person is found on the land, if a copy be put up in two such conspicuous places. 60 V. c. 7, s. 2. Service of summons

(3) If upon the return of the summons it shall appear that such person has not vacated or abandoned possession, and he does not show good cause to the contrary, the Judge or Stipendiary Magistrate shall make an order for the summary removal of such person from such land, and the order shall be executed by the Sheriff, or any bailiff, or constable, or other person to whom it is delivered. 60 V. c. 7, s. 1, part. Order for removal.

22. The officer to whom any warrant or order is addressed under the provisions of this Act shall forthwith remove the person named therein from the Crown Lands, and in the execution of the warrant or order shall have all the powers, rights, immunities and privileges enjoyed by a sheriff or constable or other peace officer in the execution of his duty. 60 V. c. 3, s. 3; c. 7, s. 3. Execution of warrant.

23. The officer executing a warrant or order or serving a summons issued under this Act may take with him all necessary assistance, and shall have the right to demand such assistance in the same manner as a constable or other peace officer in the execution of his duty may lawfully do. 60 V. c. 7, s. 6. Officer may call for assistance.

24. Any person resisting, obstructing or interfering with an officer executing a warrant or order issued under section 21 or 26, or serving a summons issued under section 21, shall be liable to a fine of not less than \$20 nor more than \$100 and costs, and in default of payment of such fine and costs to imprisonment for a term not exceeding three calendar months. 60 V. c. 3, s. 3; c. 7, s. 5. Resisting or obstructing officer in execution of duty.

25. In case it shall appear to the Commissioner of Crown Lands that the presence of any person on any Crown Lands coming within the provisions of section 21, is dangerous Issue of warrant by Commissioner of Crown Lands.

to the safety of any body of pine timber or other public property on such Crown Lands or in its vicinity, and it is expedient and important in the public interest to remove such person forthwith, he may by warrant under his hand and seal authorize any provincial constable, forest ranger, Crown Lands agent, or other officer, to remove such person from such Crown Lands. 60 V. c. 7, s. 7.

Penalty for
remaining on
or returning
to crown lands
after order.

26. Any person remaining upon Crown Lands after having been ordered to leave the same, or returning thereto after having left in obedience to a summons issued under section 21 or after having been removed under an order or warrant issued under section 21 or 25 shall, upon summary conviction thereof before a stipendiary or police magistrate or before any two or more justices of the peace, be liable to a fine of not less than \$20 nor more than \$100 and costs, and in default of payment of such fine and costs, to imprisonment for a term not exceeding three calendar months, but in case any person so convicted shall pay such fine and costs and continue in possession of such Crown Lands, he shall upon summary conviction thereof as aforesaid be liable to a further fine of not less than \$20 nor more than \$100 and costs, and in default of payment of such further fine and costs, to imprisonment for a term not exceeding six calendar months, and he shall be similarly dealt with so long as he shall continue in possession after payment of any fine as aforesaid. 60 V. c. 7, s. 4.

SCHEDULE A.

(Section 7.)

WRIT OF REMOVAL BY CONTINUANCE.

Province of Ontario.

Victoria, by the Grace of God, &c.

To the Sheriff of _____, Greeting : .

Whereas by a certain Warrant of Removal made by one (or two, as the case may be) of the Commissioners appointed under the Great Seal of Our Province of Ontario, by virtue of Chapter 33 of The Revised Statutes of Ontario, entitled *An Act to prevent trespasses to Public Lands*, you were formerly commanded that (*here recite Commissioners' Warrant of Removal*), which said Warrant you lately returned to Us into Our High Court of Justice, at Toronto, and thereupon certified to Us that (*here insert the Sheriff's return setting forth the return of the party or parties, or his belief that he or they would return unless the land be protected by the issue of process for the protection thereof*) according to the form of the Statute in such case made and provided : Therefore, We command you, that immediately after receipt hereof you proceed to the said lands and premises, and remove or cause to be removed all and singular such person and persons, if any, whom you shall find in or upon the same, from the possession thereof, and give or cause to be given to

such person or persons as shall for that purpose be appointed by Our said Commissioners, or any one of them, under their or his hand and seal, the full, quiet and peaceable possession of the said premises and every part and parcel thereof, and that such person or persons, and all others having from time to time a similar warrant from Our said Commissioners, or any one of them in such quiet and peaceable possession of the said premises, you support, help and maintain from time to time, as often as occasion shall and may require; and what you shall do in the premises you shall certify to Us in Our said High Court of Justice before Us, at Toronto, immediately after the execution hereof, together with this Writ; and herein fail not at your peril.

Witness the Honourable _____, President, etc. (*as in other writs issued out of the said Court.*)

R. S. O. 1887, c. 29, Sched. A.

SCHEDULE B.

(Section 11.)

WRITS OF FIERI FACIAS AND CAPIAS AD SATISFACIENDUM.

Province of Ontario.

Victoria, by the Grace of God, &c.

To the Sheriff of _____, Greeting:

Whereas by a certain conviction had before _____, two of Our Commissioners appointed under the Great Seal of Our Province of Ontario, by virtue of Chapter 33 of The Revised Statutes of Ontario, entitled *An Act to prevent trespasses to Public Lands*, it was considered by the said Commissioners (*here set out the conviction*), which said conviction for certain reasons We caused to be certified to Us in Our High Court of Justice at Toronto, according to the form of the Statute in such case made and provided; We therefore, being willing to be satisfied the said fine so by the Commissioners set and imposed upon the said _____, do hereby command you that you levy of the goods and chattels of the said _____, in your County, the amount of the said fine so set and imposed upon him as aforesaid, so that you may have that money in Our said High Court of Justice before Us, at Toronto, on the _____ day of _____ next; and if it shall happen that sufficient goods and chattels of the said _____ shall not be found in your County for payment of the said fine, then, We command you that you levy of the lands and tenements of the said _____, in your County, the amount of the said fine so set and imposed on him as aforesaid, and have that money in Our said Court before Us on the day and at the place aforesaid; and if it shall happen that sufficient neither of goods nor chattels nor lands nor tenements of the said _____ shall be found in your County for payment of the said fine, then, We command you that you take the body of the said _____ wheresoever he shall be found in your County, and him safely keep in your prison until he hath fully satisfied Us, the said fine so set and imposed upon him as aforesaid; and in what manner you shall have executed this Our Command make appear to Us in Our said Court, before Us, on the day and at the place aforesaid, and have then there this Writ.

Witness the Honourable _____, President, etc. (*as in other writs issued out of the said Court.*)

R. S. O. 1887, c. 29, Sched. B.

CHAPTER 34.

An Act respecting the Clergy Reserves.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Ontario Municipalities Fund.

1. The moneys arising from the Clergy Reserves in Ontario shall form a separate Fund, to be called "The Ontario Municipalities Fund," which shall consist of,

(a) All moneys arising from the sale of Clergy Reserves in Ontario, whether now funded or invested either in the United Kingdom or in Canada, or remaining uninvested, or to arise from such sales;

(b) The interest and dividends of moneys forming part of such Fund;

(c) The interest upon sales of Clergy Reserves on credit, and

(d) Rents, issues and profits arising from Clergy Reserves demised or to be demised for any term of years, and other casual and periodical incomings arising from Clergy Reserves, after deducting therefrom any sums chargeable against the said fund and the actual and necessary expenses attending the sales of the said Clergy Reserves, and of managing the same and the Fund aforesaid. R. S. O. 1887, c. 30, s. 1.

Moneys to be paid to the Provincial Treasurer for the purposes of this Act.

2. The moneys forming the said Fund shall be paid into the hands of the Provincial Treasurer, and shall be by him applied to the purposes hereinafter mentioned, under the authority of this Act, or any general or special Order or Orders to be made by the Lieutenant-Governor in Council. R. S. O. 1887, c. 30, s. 2.

Appropriation of unappropriated balance.

3. The amount of the Municipalities Fund remaining unexpended and unappropriated under the foregoing provisions, on the thirty-first day of December in each year, shall be added to the amount voted by the Legislature for the support of Public and Separate schools for the succeeding year, and shall be by the Minister of Education be included in the distribution of the Legislative grant to the several municipalities as provided by *The Public Schools Act*. R. S. O. 1887, c. 30, s. 3.

Rev. Stat. c. 292.

Repeal of certain parts of Imperial Act, 3-4 V. c. 78.

4. So much of the Act of the Imperial Parliament, passed in the session held in the third and fourth years of the reign of Her Majesty Queen Victoria, and chaptered 78, as limits the

quantity of lands forming part of the Clergy Reserves which may be sold in any one year without the previous approbation in writing of one of Her Majesty's Principal Secretaries of State, and so much of the said Act as makes any appropriation of moneys forming part of the Clergy Reserves Fund, or arising from the sales of Clergy Reserves, other than is made by this Act, and so much of the said Act as is inconsistent with this Act is repealed. R. S. O. 1887, c. 30, s. 4.

5. Lands which have, under the authority of any Act at the time in force, been accepted in exchange for lands originally forming part of the Clergy Reserves in any part of this Province, shall be deemed to be Clergy Reserves for all the purposes of this Act. R. S. O. 1887, c. 30, s. 5.

Certain land
to be deemed
part of Clergy
Reserves.

CHAPTER 35.

An Act to provide for the final settlement of the
Common School Fund.

Preamble.

WHEREAS this Province is interested, with the Province of Quebec, in a fund commonly called "The Common School Fund," existing under the provisions of chapter 26 of the Consolidated Statutes of Canada; and whereas this fund originally consisted of one million acres of public lands situated in the Huron tract, in the Province of Ontario; and whereas, at the time of Confederation, a large portion of the said lands had been sold and partly realized by the late Province of Canada, for the purposes of the said fund, and the proceeds thereof passed to and are still in the possession of the Dominion of Canada, to the credit of the said provinces; and whereas, since Confederation, this Province has sold some of the remaining portion of the said lands, and collected amounts, both on account of the price of such sales, and on account of the balances remaining unpaid of the price of sales made prior to Confederation;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Agreement
with Quebec
for purchase
of certain
balances, etc.,
authorized.

1. The Lieutenant-Governor of this Province in Council, is hereby authorized to agree with the Government of the Province of Quebec, upon an amount to be paid by this Province for the acquisition by it of the uncollected balances of the price of the lands mentioned in the preamble of this Act, and for the payment by this Province of what may be considered the value of the lands remaining unsold. 57 V. c. 11, s. 1.

Agreement as
to final
payment and
division, etc.,
of capital

2. It shall be lawful for the Lieutenant-Governor in Council to enter into an agreement with the Government of the Dominion of Canada, and that of the Province of Quebec, respectively, for the purpose of effecting a final division and distribution between the said Provinces and final payment of the principal of the said Common School Fund, and to enter into such agreement with the Dominion of Canada and the Province of Quebec as may be necessary for the division, distribution and payment of the said principal, and for granting and giving to all parties concerned such receipts and discharges, and signing such deeds as may be necessary in the premises. 57 V. c. 11, s. 2.

3. In the event of the Governments of the two Provinces failing to agree on the proportion of the said division, distribution and payment, the question may be determined by the arbitrators appointed in pursuance of the Act passed in the 54th year of Her Majesty's reign, and chaptered 2. 57 V. c. 11, s. 3. Arbitration in default of agreement.

4. All sums of money received under this Act shall form part of the consolidated revenue fund of this Province. 57 V. c. 11, s. 4. Receipts to form part of consolidated revenue fund.

CHAPTER 36.

An Act respecting Mines.

SHORT TITLE, s. 1.

PART I.—GENERAL PROVISIONS, ss. 2-25.

INTERPRETATION CLAUSES, s. 2.

ROYALTIES ON ORES OR MINERALS, ss. 3-6.

REGULATIONS, ss. 7, 8.

EXPLORING FOR MINERALS ON CROWN LANDS, s. 9.

CROWN LANDS MAY BE LAID OUT AS MINING LOCATIONS AND MINING CLAIMS, s. 10.

ENCOURAGEMENT OF IRON MINING, ss. 11, 12.

EXPLORATORY DRILLING, s. 13.

BUREAU OF MINES AND OFFICERS, ss. 14-25.

Director of Bureau, ss. 14-15.

Appointment of inspector, officers and agents, ss. 16, 17.

Officers not to purchase Crown Lands, etc., s. 18.

Powers and duties of inspector, ss. 19-25.

PART II. — MINING LOCATIONS, ss. 26-43.

FORM AND PRICE OF LOCATIONS, ss. 26-31.

GRANT TO FIRST DISCOVERER, s. 32.

WITHDRAWAL OF TERRITORY FROM SALE, s. 33.

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Rights of co-owners or co-lessees, s. 37.

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STAKING OUT AND HOLDING MINING CLAIMS, ss. 47-54.

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PART V. — OFFENCES AND PENALTIES, ss. 73-87.

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INSPECTOR MAY CONVICT ON VIEW, s. 82.

WHO MAY TRY OFFENDERS, s. 83.

FORM OF COMPLAINT, ETC., ss. 84-86.

APPLICATION OF FEES AND FINES, s. 87.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Mines Act.*" 55 V. c. 9, s. 1.

PART I.—GENERAL PROVISIONS.

INTERPRETATION.

2. Where the following words occur in this Act, and in ^{Interpreta-} Orders in Council or Regulations under it, they shall be construed in the manner hereinafter mentioned unless a contrary intention appears :—

1. The noun "mine" shall include every shaft in the course of "Mine." being sunk, and every adit, level and inclined plane in the course of being driven for commencing or opening any mine, or for searching for or proving minerals, and all the shafts, levels, planes, works, machinery, tramways and sidings, both below ground and above ground, in and adjacent to a mine, and any such shaft, level and inclined plane belonging to any mine to which this Act applies, together with all rocks, soils or strata containing any ores or minerals, and all roast yards, smelting furnaces and other places where the work of mining may be carried on. 55 V. c. 9, 2 (1); 57 V. c. 16, s. 2, part.

2. The verb "mine" and the participle "mining" shall ^{"Mine."} include any mode or method of working whatsoever ^{"Mining."} whereby the soil or earth or any rock, stone or quartz may be disturbed, removed, carted, carried, washed, sifted, roasted, smelted, refined, crushed or otherwise dealt with for the purpose of obtaining any metal or mineral therefrom, whether the same may have been previously disturbed or not. 55 V. c. 9, s. 2 (2); 57 V. c. 16, s. 2, part; 59 V. c. 13, s. 1.

3. "Mining division" shall include any tract of country ^{"Mining division."} declared to be a mining division within this Act.

4. "Crown lands" shall include all crown lands, school ^{"Crown lands."} lands or clergy lands not in the actual use or occupation of the Crown, or of any public Department of the Government of the Dominion of Canada or of this Province, or of any officer or servant thereof, and not under lease or license of occupation from the Crown or the Commissioner of Crown Lands, and as to which no adverse claim exists which is subsequently recognized by the Commissioner of Crown Lands.

5. "Surface rights" shall mean lands granted, leased or ^{"Surface rights."} located for agricultural or other purposes and in respect of which the ores, minerals and mines thereupon or under the surface thereof are by statute, the patent or lease, or otherwise, reserved to the Crown. 55 V. c. 9, s. 2 (3-5).

6. "Mining rights" shall mean the ores, mines and minerals ^{"Mining rights."} on or under any land where the same are dealt with separately from the surface of the land. 60 V. c. 8, s. 1.

7. "Party wall" shall mean a bank of earth or rock left ^{"Party wall."} between two excavations.

"Shaft."
"Plan."

8. "Shaft" shall include pit, and "plan" shall include a map and section, and a correct copy or tracing of any original plan as so defined.

"Machinery."

9. "Machinery" shall include steam or other engines, boilers, furnaces, stamps or other crushing apparatus, winding or pumping gear, chains, trucks, tramways, tackle, blocks, ropes or tools, and all appliances of whatsoever kind used in or about or in connection with the mine.

"Owner."

10. "Owner" when used in relation to any mine shall mean any person or body corporate who is the immediate proprietor, or lessee, or occupier of any mine, or of any part thereof, and shall not include a person or body corporate who merely receives a royalty, rent or fine from a mine, or is merely the proprietor of a mine subject to any lease, grant or license for the working thereof, or is merely the owner of the soil and not interested in the minerals of the mine.

"Agent."

11. "Agent" when used in relation to any mine shall mean any person having, on behalf of the owner, care or direction of any mine, or of any part thereof, and shall include "manager" and "superintendent."

"Inspector."

12. "Inspector" shall include any inspector appointed under this Act, and whether for a mining division or any part thereof or for the Province. 55 V. c. 9, s. 2. (7-12).

ROYALTIES ON ORES OR MINERALS.

All royalties,
etc., reserved
by any patent
prior to 4th
May, 1891,
abandoned.

Reservations
of gold and
silver mines
in any patent
previously
issued
rescinded,
except
under Free
Grant and
Homestead
Act.

Rev. Stat.
cap. 29.

3. All royalties, taxes or duties which by any patent or patents issued prior to the 4th day of May, 1891, have been reserved, imposed or made payable upon or in respect of any ores or minerals extracted from the lands granted by such patents and lying within this Province, are declared to have been repealed and abandoned; and such lands, ores and minerals shall be free and exempt from every such royalty, tax or duty; and all reservations of gold and silver mines contained in any patent issued prior to the date aforesaid, granting in fee simple lands situate within this Province, are hereby rescinded and made void, and all such mines in or upon such lands shall be deemed to have been granted in fee simple as part of such lands and to have passed with such lands to the subsequent and present proprietors or owners thereof in fee simple; but the provisions of this section shall not be construed to apply to lands patented or to be patented under *The Free Grants and Homesteads Acts*. 55 V. c. 9, s. 3.

Royalties
payable to
the Crown.

4.—(1) All ores and minerals mined, wrought or taken from lands located, sold and granted or leased by the Crown on or after the 4th day of May, 1891, and before the 1st day of January, 1900 shall be subject to a royalty to the Crown for the use of the Province, to be reckoned at the following rates, whether such royalty be reserved in the grant, patent or lease, or not:

- (a) On ores of silver, nickel, nickel and copper, and iron, two per cent.
- (b) On all other ores and minerals, such royalty as shall be from time to time imposed by Order in Council, not exceeding two per cent.

(2) The said royalties shall be calculated upon the value of the ores or minerals at the pit's mouth, less the actual cost of labor and explosives for mining and raising the same to the surface, and the subsequent treatment thereof for the market, and shall be payable at such time and times, and the values shall be fixed and ascertained in such manner as shall be provided by regulation to be made by the Lieutenant-Governor in Council in that behalf.

(3) The said royalties shall not be imposed or collected upon any ores mined, wrought or taken until after seven years from the date of the patent or lease, and no higher rate of royalty shall be levied upon ores and minerals taken from land than that provided for by the statute in force at the time of the sale or lease of such land.

(4) The royalties payable under this section shall be in lieu of the larger royalties reserved under section 3 of the Act passed in the 54th year of Her Majesty's reign intituled *An Act to amend the General Mining Act*, or under section 4 of *The Mines Act, 1892*. 55 V. c. 9, s. 4, part; 57 V. c. 16, s. 1, part; 60 V. c. 8, s. 2.

5.—(1) Subject to the provisions of subsection 3 of the preceding section, which shall apply to all royalties reserved under this section, all ores and minerals mined, wrought or taken from lands located, sold and granted or leased by the Crown on or after the 1st day of January, 1900, shall be subject to a royalty to the Crown for the use of the Province, to be reckoned at the following rates, whether such royalty be reserved in the grant, patent or lease, or not :

Royalties
payable to
the Crown.

- (a) On ores of silver, nickel, or nickel and copper, three per cent.
- (b) On iron ore, not exceeding two per cent.
- (c) On all other ores and minerals, such royalty as shall be from time to time imposed by Order in Council, not exceeding three per cent.

(2) Such royalties shall be calculated upon the value of the ores or minerals at the pit's mouth, less the actual cost of labor and explosives for mining and raising the same to the surface, and shall be payable at such time and times and the values shall be fixed and ascertained in such manner as shall be provided by regulation to be made by the Lieutenant-Governor in Council in that behalf. 55 V. c. 9, s. 4, part; 57 V. c. 16, s. 1, part; 60 V. c. 8, s. 2.

Ores taken for experimental purposes may be free from royalties.

6. The Lieutenant-Governor in Council may, upon the recommendation of the Director of the Bureau of Mines, direct that the ores of any mine taken or to be taken out by way of experiment and for the purpose of ascertaining the quality and value of the mineral and mine shall be free from royalty. 55 V. c. 9, s. 5.

REGULATIONS.

Lieutenant-Governor in Council may make regulations as to Arbitrators or Mining Boards.

7. The Lieutenant-Governor in Council may from time to time make such regulations as he deems necessary or expedient for the appointment of Arbitrators or Mining Boards to hear and determine appeals from the decisions of Inspectors of Divisions; for the prescribing, defining and establishing of the powers, duties and mode of procedure of the Arbitrators or Mining Boards; for the opening, construction, maintenance and using of roads to, through or over mining claims, mining locations or lands hereafter sold as mining lands; for the opening, construction, maintenance and using of ditches, aqueducts or raceways through or over such claims, locations or lands for the conveyance and passage of water for mining purposes; and generally for the purpose of carrying out this Act; and such regulations, after publication in the *Ontario Gazette*, shall have the force and effect of law. 55 V. c. 9, s. 6 (1); s. 28 (2); 60 V. c. 8, s. 4.

Regulations to be laid before Assembly.

8. Any regulations made under this Act by the Lieutenant-Governor in Council shall, if made when the Legislative Assembly is sitting, be laid upon the table of the House during the then session, and if made at any other time shall be laid upon the table of the House within fifteen days from the beginning of the next session thereof. 55 V. c. 9, s. 6, (2); 57 V. c. 16, s. 16.

MINERALS ON CROWN LANDS.

Crown lands may be explored for mines, etc

9. Any person or persons may explore for mines or minerals on any Crown lands, surveyed or unsurveyed, and not for the time being marked or staked out and occupied as hereinafter mentioned, except on such lands as may by the Lieutenant-Governor in Council have been withdrawn from sale, location or exploration as being valuable for their pine timber or for any other reason, and any person attempting to explore, occupy or work any lands so withdrawn shall incur a penalty of \$20 and costs and in default of payment of the fine and costs such person may be imprisoned for any period not exceeding one month. 55 V. c. 9, s. 7; 60 V. c. 3, s. 3, c. 8, s. 5.

Crown lands may be sold as mining locations.

10.—(1) Crown lands not situated within any Mining Division which are supposed to contain ores or minerals and mining rights in lands the ores or minerals whereof have been

reserved by the Crown, may be sold or leased as mining lands, in blocks, sections or lots, to be called "mining locations."

(2) Where such Crown lands are situated within a mining division they may be occupied and worked as "mining claims," under miners' licenses, as hereinafter provided. 60 V. c. 8, s. 6.

ENCOURAGEMENT OF IRON MINING.

11.—(1) The Treasurer of the Province may, under the authority of such regulations as may be made from time to time by the Lieutenant-Governor in Council, pay out of the Iron Mining Fund, established by the Act passed in the 57th year of Her Majesty's reign, chapter 16, to the miners or producers of ore upon all iron ores which shall be raised or mined and smelted in the Province for a period of five years from the first day of January, 1896, the equivalent of one dollar per ton of the metallic iron product of such ores; but no part of said moneys shall be so paid until the said regulations so far as they govern payments have been approved by the Legislative Assembly. 57 V. c. 16, s. 12; 59 V. c. 13, s. 6.

Payments out of Iron Mining Fund.

(2) Should so large a quantity of ore be raised or mined and smelted in any one year that the sum of \$25,000 will be insufficient to meet the payments provided for in the preceding subsection, then payments to the miners or producers thereof shall be made upon a *pro rata* basis, so that no more than \$25,000 shall be paid for the produce of ores in any one year. 57 V. c. 16, s. 13.

Not more than \$25,000 to be paid out in any year.

12. Payments out of the appropriation of \$125,000 for the Iron Mining Fund shall cease and determine with the payments of any sum or sums which shall have been earned during the said period of five years, and any part or balance of the said sum remaining thereafter shall be returned to and become part of the Consolidated Revenue Fund of the Province. 57 V. c. 16, s. 14.

Unexpended appropriation to lapse after five years.

EXPLORATORY DRILLING.

13.—(1) The Commissioner of Crown Lands may, out of the moneys voted for that purpose, purchase not more than two diamond drills to be used in exploratory drilling of ores or minerals in the Province, under rules and regulations to be made by the Lieutenant-Governor in Council.

Purchase of drills for exploratory purposes.

(2) The regulations shall, amongst other things, provide:

(a) For the control and working of the drills under the direction of a person or persons employed for the purpose by the Bureau of Mines;

- (b) As to the payment of freight charges where the drills are used upon mines or lands other than those owned by the Crown;
- (c) As to the applications for the use of the drills and the method of dealing therewith;
- (d) As to the charges for the use of the drills and for damages thereto, or wear and tear connected therewith, and otherwise as to the Lieutenant-Governor in Council shall seem meet. 57 V. c. 16, s. 15.

BUREAU OF MINES AND OFFICERS.

Appointment
of Director.

14. There shall be established in connection with the Department of Crown Lands a Bureau of Mines to aid in promoting the mining interests of the Province, and the Lieutenant-Governor in Council may appoint an officer to be known as Director of the Bureau of Mines, who shall act under the direction of the Commissioner of Crown Lands, unless and till otherwise ordered, and who shall be paid such salary as shall be voted by the Legislature. 55 V. c. 9, s. 22.

Powers of
Director.

15. The Director of the Bureau of Mines shall have all the powers, rights and authority throughout the Province which an inspector or local agent has or may exercise in any mining division or locality, and such other powers, rights and authority for the carrying out of the provisions of this Act as shall be assigned to him by regulation. 55 V. c. 9, s. 23.

Appointment
and powers of
inspectors of
mining divi-
sions.

16.—(1) The Lieutenant-Governor may appoint for the Province, or any part thereof, and for every Mining Division or for any part thereof, an Inspector, who shall be an officer of the Bureau of Mines, and may by Order in Council prescribe the duties and fix the salary of such Inspector. 55 V. c. 9, s. 25. 60 V. c. 8, s. 12.

Inspector
not to be
interested
in mines.

(2) No person shall be appointed or authorized to act as an Inspector who practises or acts, or is a partner of any person who practises or acts, as a mining agent, or who is employed by the owners of or is interested in any mine. 55 V. c. 9, s. 64. 60 V. c. 8, s. 26.

Appointment
of agents for
sale of mining
lands.

17. The Lieutenant-Governor may from time to time appoint local officers or agents to receive applications for the sale of mining lands in their respective agencies and to carry out the provisions of any regulations and Orders in Council in that behalf, and to supply information to intending purchasers, and such officers and agents shall be paid in such manner and at such rates as the Lieutenant-Governor in Council may direct. 55 V. c. 9, s. 28, (1.)

18. No officer appointed under this Act shall, either directly or indirectly purchase or be or become proprietor of, or interested in, any Crown lands or mining claim; and any such purchase or interest shall be void; and if any officer violates the provisions of this section he shall forfeit his office and in addition thereto shall be liable to a penalty of \$500 for every such offence, to be recovered in an action by any person who sues for the same. 55 V. c. 9, s. 27.

Officers to have no interest in mining claims, etc.

Penalty.

POWERS AND DUTIES OF INSPECTOR.

19. An Inspector under this Act shall have power to do all for any of the following things, namely:

Powers of inspector.

1. To make such examination and enquiry as may be necessary to ascertain whether the provisions of this Act relating to matters either above or below ground are complied with in the case of any mine
2. To enter, inspect and examine any mine and every portion thereof, at all reasonable times by day or night, but so as not to impede or obstruct the working of the mine.
3. To examine into and make enquiry respecting the state and condition of any mine, or any portion thereof, and the ventilation of the mine, and all matters and things connected with or relating to the safety of the persons employed in or about the mine, or any mine contiguous thereto, and to give notice to the owner or agent in writing of any particulars in which he considers such mine or any portion thereof or any matter, thing or practice to be dangerous or defective, and to require the same to be remedied within the period of time named in such notice, and unless the cause of danger is removed or such defect is remedied within the time named, the owner or agent shall be guilty of an offence against this Act.
4. To exercise such other powers as may be necessary for ensuring the health and safety of miners and all other persons employed in or about mines and mining works. 55 V. c. 9, s. 65 (1); 60 V. c. 8, s. 27.

20. Every Inspector under this Act shall make an annual report of his proceedings during the preceding year to the Director of the Bureau of Mines, which report shall be laid before the Legislative Assembly. 55 V. c. 9, s. 67, part.

Reports of inspector.

Service of
notices pend-
ing appoint-
ment of
inspector.

21. In the event of a vacancy in the office of mining Inspector any notice by this Act required to be given to such officer shall be given to the Director of the Bureau of Mines. 55 V. c. 9, s. 68.

Plans to be
produced on
inspection of
mine.

22. On the occasion of any examination or inspection of a mine the owner shall, if required so to do, produce to the Inspector, or any other person authorized by the Commissioner of Crown Lands, an accurate plan of the workings thereof; every such plan as aforesaid shall show the workings of the mine up to within six months of the time of the inspection, and the owner shall, if required by such inspector or other authorized person, cause to be marked on such plan the progress of the workings of the mine up to the time of such inspection, and shall also permit the Inspector to take a copy or tracing thereof. 55 V. c. 9, s. 66.

Inspector to
be a Justice of
the Peace.

23. Every Inspector shall be *ex officio* a Justice of the Peace of the county or united counties, district or districts which a mining division comprehends or includes, in whole or in part, or in which or in any portion of which a mining division lies; and it shall not be necessary that he shall reside therein or possess any property qualification whatever in order to enable him lawfully to act as such Justice of the Peace. 55 V. c. 9, s. 26 (1); 60 V. c. 8, s. 13.

Power to
settle disputes
between
licensees.

24. Every Inspector shall, as to the mining division for which he is appointed, have power to settle summarily all disputes between licensees as to the existence or forfeitures of mining claims, and the extent and boundary thereof, and as to the use of water and access thereto, and generally to settle all difficulties, matters or questions between licensees which may arise under this Act; and the decision of such Inspector, in all cases under this Act, shall be final, except where otherwise provided by this Act, or where another tribunal is appointed under the authority of this Act; and no case under this Act shall be removed into any court by *certiorari*. 55 V. c. 9, s. 26 (2).

Decision to be
final.

Appointment
of constables
in mining
divisions.

25. Every Inspector appointed in and for a mining division under this Act may appoint any number of constables not exceeding four; and the persons so from time to time appointed shall be and are hereby constituted respectively constables and peace officers for the purposes of this Act, for and during the terms and within the mining divisions for which they are respectively appointed. 55 V. c. 9, s. 46.

PART II.—MINING LOCATIONS.

FORM, SIZE AND PRICE OF LOCATIONS.

Form and size
of mining
locations.

26. Mining locations under this Act shall conform to the following requirements :

1. In the unsurveyed territory within the districts of Algoma, Thunder Bay and Rainy River, and that part of the district of Nipissing which lies north of the French River, Lake Nipissing and the River Mattawa, every regular mining location shall be rectangular in shape, and the bearings of the outlines thereof shall be due north and south and due east and west astronomically; and such location shall be of one of the following dimensions, namely, eighty chains in length by forty chains in width, containing three hundred and twenty acres, or forty chains square, containing one hundred and sixty acres, or forty chains in length by twenty chains in width, containing eighty acres, or twenty chains in length by twenty chains in width, containing forty acres. In unsurveyed territories in Algoma, etc.

Dimensions.
2. Where a mining location in the unsurveyed lands in the territory aforesaid borders upon a lake or river a road allowance of one chain in width shall be reserved along the margin of the lake or river, and the width of the location shall front on the road allowance, and the bearings of the other outlines of the location shall be due north and south and due east and west astronomically, and the location shall otherwise conform to the requirements of the preceding subsection as nearly as the nature of the land will admit; Provided that the Commissioner of Crown Lands may, where in his opinion the public interests will not be prejudiced, specially direct that such reservation shall not be made in the case of any island or islands which contain not more than thirty acres. When locations border on lakes and rivers in said territory.

Proviso.
3. In the townships in the said territory surveyed or hereafter to be surveyed into sections or lots every mining location after such survey shall consist of a half, a quarter, an eighth, or a sixteenth of a section or lot as the case may be, but so that the area of any such mining location shall not be less than forty acres. When in townships in said territory surveyed in sections.
4. In all patents and leases for mining locations in the territory aforesaid there shall be a reservation for roads of five per centum of the quantity of land professed to be granted. 55 V. c. 9, s. 10 (1-4). Reservation for roads.
5. In the lands not situate within the limits of the territory aforesaid mining locations shall be as may be defined by any Order in Council hereafter to be made, but so that the area of any such location shall be not less than forty acres. 55 V. c. 9, s. 10 (5); 57 V. c. 16, s. 3. Locations in other unsurveyed territory.

How mining locations in unsurveyed territory to be surveyed.

27. Mining locations in unsurveyed territory shall be surveyed by an Ontario Land Surveyor, and shall be connected with some known point in previous surveys, or with some other known point or boundary (so that the tract may be laid down on the office maps of the territory in the Department of Crown Lands), at the cost of the applicants, who shall be required to furnish within four months of the time of their application the surveyor's plan, field notes and description of the location, showing a survey in accordance with this Act and to the satisfaction of the Commissioner of Crown Lands, and such surveyor's plan, field notes and description shall not be regarded as constituting a claim to the location on behalf of the party for whom or at whose instance they have been prepared, unless they shall be filed in the Department of Crown Lands immediately upon completion of the survey. 55 V. c. 9, s. 11; 60 V. c. 8, s. 7 (1).

Conditions of application for mining locations.

28. In addition to the requirements of sections 26 and 27, every application for a mining location shall be accompanied with an affidavit showing the discovery of valuable ore or mineral thereon by or on behalf of the applicant, and that he has no knowledge and has never heard of any adverse claim by reason of prior discovery or otherwise, and every applicant shall within sixty days pay in to the Department of Crown Lands one-fourth of the purchase price or rental, and within three months the remaining three-fourths, the time to be reckoned from the date on which the application has been filed in the Department, and in case of failure in respect of any of these requirements the application shall lapse and be of no effect: Provided, however, that in no case shall a patent or lease for a location in unsurveyed territory issue until a survey has been filed as required by the next preceding section, and that in the case of locations in surveyed townships the time for completing all requirements on the part of an applicant may be limited to thirty days at the discretion of the Commissioner of Crown Lands. 60 V. c. 8, s. 7 (2).

Limit of applications in any county or district.

29. No application for mining lands containing ores or minerals of the same class or kind shall be entertained in any one calendar year from any person for more than three hundred and twenty acres, nor from any firm, partnership, syndicate or incorporated company for more than six hundred and forty acres, within a radius of fifteen miles in any one district or county of the Province, and such areas may be composed of separate locations of not less than forty acres each; and in the event of an application lapsing or becoming abandoned, the applicant therefor may apply for other mining land in the same district or county in place thereof, but so as not to exceed the limit herein provided; and where a locality or territory is reported or shown to be rich in ores or minerals, the Commissioner of Crown Lands may still further limit applicants to one or more locations of forty acres, at his discretion. 60 V. c. 8, s. 7 (3).

30. In the case of applications for mining lands made prior to the 13th day of April, 1897, and not prior to that day finally disposed of by the Commissioner of Crown Lands, the periods in which all requirements herein are to be completed shall date from the said 13th day of April; and, in all other respects the provisions of sections 27, 28 and 29 shall apply, except in cases where the surveys for the lands had prior to the said day been made and filed, or at least one-half of the purchase money paid thereon, in which cases the periods of time mentioned in section 28 shall be deemed to run from the said 13th day of April. 60 V. c. 8, s. 7 (4).

Applications
prior to 13th
April, 1897.

31.—(1) The price per acre of all Crown lands to be sold as mining lands or locations in the Districts of Algoma, Thunder Bay, Rainy River and that part of the District of Nipissing which lies north of the French River, Lake Nipissing and the River Mattawa shall be:

Price of
mining
locations.

- | | |
|--|--------|
| (a) If in a surveyed township and within six miles of any railway..... | \$3 00 |
| (b) If elsewhere in surveyed territory | 2 50 |
| (c) If within six miles of any railway but in unsurveyed territory | 2 50 |
| (d) If situate elsewhere in unsurveyed territory | 2 00 |

(2) The price per acre of all other Crown lands sold as mining lands or locations and lying south of the aforesaid lake and rivers shall be:

- | | |
|---|--------|
| (e) If in a surveyed township and within six miles of any railway | \$2 00 |
| (f) If situate elsewhere | 1 50 |

57 V. c. 16, s. 4, part.

(3) The price per acre for a patent of mining rights shall be half of the above rates. (Order in Council dated 21st May, 1897.)

Price of
mining rights.

32. A prospector or explorer who is the first discoverer of valuable metals, ores or minerals shall be entitled, subject to the royalties provided by this Act, to a free grant of one location of forty acres where the vein, lode or other deposit is not less than ten miles from the nearest known mine, vein, lode or deposit of the same metal, ore or mineral respectively, and proofs of his being the first discoverer and of the distance from the nearest known occurrence of the same metal, ore or mineral shall be made by affidavit to the satisfaction of the Commissioner of Crown Lands. 60 V. c. 8, s. 3.

First dis-
coverer of
ores or
minerals to be
entitled to a
free grant.

33. Where a part or section of the Province is shown or reported to be rich in ores or minerals the Lieutenant-Governor in

Withdrawal
of territory

pending ex-
ploration,
with power, to
increase the
price or rent.

Council may withdraw the whole or a portion thereof from sale or lease, and set the same apart pending an exploration thereof or the prospecting of veins, lodes or other deposits of ores or minerals therein by the use of a diamond drill or otherwise, under direction of the Commissioner of Crown Lands, and may fix the price per acre at any greater sum than is hereinbefore provided, or may offer the same for sale at public auction, on such terms and conditions as may be fixed by Order in Council. 60 V. c. 8, s. 8.

CONDITIONS ON WHICH LOCATIONS TO BE HELD.

Location sold
to be held
under condi-
tion of certain
expenditures
in mining
thereon.

34.—(1) The grantee or owner of any mining location sold and patented under section 31 shall, during the seven years immediately following the issue of the patent therefor, expend in stripping or in opening up mines, in sinking shafts or in other actual mining operations, exclusive of all houses, roads and other like improvements, a sum not less than at the rate of \$1 per acre during the first two years, and a sum not less than at the rate of \$1 per acre during each remaining year of the said seven years, and the said expenditure may consist of labor actually performed by grown men to be computed at the rate of \$2 per man per day; but if two or more locations are contiguous, the whole of the mining work herein required may be done upon one of them.

On default to
revert to the
Crown.

(2) In default of such expenditure during the first two years or during any subsequent year of the said period of seven years all rights connected with any such mining location, shall upon an Order in that behalf being made by the Lieutenant-Governor in Council, upon the report of the Director of the Bureau of Mines that such expenditure has not been made, revert to, and be vested in Her Majesty, her successors and assigns, for the public uses of the Province, freed and discharged of any interest or claim of any other person or persons whatsoever. 60 V. c. 8, s. 9.

Leases of min-
ing lands
authorized.

35.—(1) Instead of granting any mining lands in fee simple the same may be leased or demised for a term of ten years, with the right of renewal for a further term of ten years at the same rental if the covenants and conditions have been performed and fulfilled.

Rental.

(2) Unless otherwise provided by regulation the rental for the first year shall be one dollar per acre, and for each year thereafter the sum of twenty-five cents per acre payable in advance, in respect of lands within the territory designated in the first subsection of section 31 of this Act; and sixty cents per acre the first year, and thereafter for each year fifteen cents per acre, payable in advance, in respect of lands situate elsewhere.

(3) Such lease may at the expiration of the second term, if the covenants and conditions thereof have been performed and fulfilled, be renewed for a term of twenty years on such conditions and at such rent as the regulations shall provide, and may in like manner and subject to the like conditions be renewed from time to time at the expiration of every twenty years. Renewal of lease.

(4) Every such lease shall be subject to such covenants and conditions on the part of the lessee, his executors, administrators and assigns, to be paid, observed and performed, as shall be provided by regulation. Conditions of lease.

(5) The said lease may among other things provide for the removal, in case of forfeiture or non-renewal of the lease, of any mining plant and machinery which the lessee, his executors, heirs and administrators shall have placed or erected upon the said premises. Removal of machinery on expiry of lease.

(6) There shall be expended in stripping or in opening up mines or in sinking shafts or in other actual mining operations the like sums upon lands leased under the provisions of this Act as it is provided by section 34 hereof shall be expended in the case of sales or grants and within the like periods, and in default of such expenditure the lease shall be forfeited and become absolutely void, and the said lands, mines and minerals shall, upon an Order in that behalf being made by the Lieutenant-Governor in Council, upon the report of the Director of the Bureau of Mines that such expenditure has not been made, revert to and become the property of and be vested in Her Majesty, her successors and assigns, and shall cease to be the property of any other person or persons whatsoever. Expenditure upon lands leased.
55 V. c. 9, s. 14.

(7) When mining rights are leased the rental shall be fifty per cent. of the rates fixed by subsection 2. (Order in Council dated 21st May, 1897.)

36. If default is made by the lessee in the payment of rent the lease shall be forfeited, but the lessee may defeat the forfeiture by payment of the full amount of rent within ninety days from the day when the same becomes payable; but unless the whole of the rent is paid within ninety days from the said day the lease shall be absolutely forfeited and void, any statute, law, usage or custom to the contrary notwithstanding, and all claims of any and every kind of the lessee or his assigns shall from and after such period forever cease and determine. 55 V. c. 9, s. 16. Forfeiture of leases on non-payment of rent.

37.—(1) Upon the failure of any one or more of several co-owners or co-lessees of a location to contribute his or their proportion of the expenditures or of the rental necessary to hold such location, the co-owners or co-lessees who have performed Failure of co-owner or co-lessee to contribute his share.

the labor or made the improvements or paid the rent as required by the provisions of this Act may at the expiration of the year give such delinquent co-owner or co-lessee, or his personal representative in case of death, personal notice in writing, or notice by registered letter addressed to his last known place of abode calling upon him to make the necessary payment; and if upon the expiration of three calendar months from such notice the delinquent co-owner or co-lessee or his said representative shall have failed to contribute his proportion to meet such expenditures or improvements or rental as the case may be, upon report thereof by the Director of the Bureau of Mines, the Commissioner of Crown Lands may order that his interest in the location shall become the property of and be vested in his co-owners or co-lessees who have made the expenditures or improvements or paid the rent overdue as aforesaid, and the same shall vest in such co-owners or co-lessees accordingly; or if the Commissioner thinks fit to refer the matter to the High Court, the Court shall have authority to make the like order.

When notice may be given by heirs.

(2) In case of the death of such person either before or after default in respect of his share, and no person has taken out administration to his estate or has obtained probate of his will, the notice provided for in the preceding subsection may be given to the heirs of such person. 60 V. c. 8, s. 10.

When lessee may become purchaser.

38. The lessee may at any time during the demised term, upon the payment of all rent due and the performance and fulfilment of all other covenants and conditions, become the purchaser of the lands demised to him, and in such case the sum paid for the first year's rental shall be treated as part of the purchase money. 55 V. c. 9, s. 15.

RESERVATION OF TIMBER.

Pine trees reserved.

39.—(1) The patents for all Crown lands sold as mining lands shall contain a reservation of all pine trees standing or being on the lands, which pine trees shall continue to be the property of Her Majesty, and any person holding a license to cut timber or sawlogs on such lands may at all times during the continuance of the license enter upon the lands and cut and remove such trees and make all necessary roads for that purpose.

Patentees may use timber for building, fencing, etc., on the land.

(2) The patentees or those claiming under them (except patentees of mining rights hereinafter mentioned) may cut and use such trees as may be necessary for the purpose of building, fencing and fuel on the land so patented, or for any other purpose essential to the working of the mines thereon, and may also cut and dispose of all trees required to be removed in actually clearing the land for cultivation.

(3) No pine trees, except for the said necessary building, fencing and fuel, or other purpose essential to the working of the mine, shall be cut beyond the limit of such actual clearing; and all pine trees so cut and disposed of, except for the said necessary building, fencing and fuel, or other purpose aforesaid, shall be subject to the payment of the same dues as are at the time payable by the holders of licenses to cut timber or sawlogs. 55 V. c. 9, s. 17.

Timber cut to be subject to dues.

40. The preceding section shall apply to all leases issued under this Act, other than leases of mining rights hereinafter mentioned, with the following limitations and variations, that is to say—

Application of section 39 to leases.

1. No pine trees shall be used for fuel other than dry pine trees, and (except for domestic or household purposes) only after the sanction of the timber licensee or the Department of Crown Lands is obtained.

2. In case it is intended to clear for cultivation any portion of the lands so leased it shall be the duty of the lessee to give the holder of the timber license three months' notice in writing of his intention to clear, and the area intended to be cleared, and its position, so that such timber licensee may remove any timber on the area intended to be cleared.

3. If at the expiry of the time limited by the notice such timber shall not have been removed from the area intended to be cleared, then the lessee shall be at liberty to cut and dispose of all trees required to be removed in actually clearing for cultivation the area specified in such notice, and all trees so cut and disposed of shall be subject to the payment of the same dues as are at the time payable by the holders of licenses.

4. If during the first ten years it is sought to cut timber, other than pine, on the lands so leased, beyond what is required for building, fencing, or fuel, or in the course of actual clearing for cultivation, or for any other purpose essential to the working of the mines as hereinbefore provided, application shall first be made to the Commissioner of Crown Lands, who may grant authority to cut such timber and fix the rate of dues to be paid thereon. 55 V. c. 9, s. 18.

SURFACE RIGHTS AND MINING RIGHTS.

41. The ores, minerals and mining rights that have in the patents been reserved to the Crown in any land may be granted or leased to the owner of the surface rights who applies therefor, unless a patent or mining lease has been previously applied for by a person who is the first discoverer of valuable ore or mineral in or upon the premises, when such applicant shall have priority. 60 V. c. 8, s. 11.

Mining rights reserved may be sold or leased.

How compensation to owner of surface rights shall be ascertained

42.—(1) Where the surface rights have been granted, leased or located, and a patent or lease of mining rights shall thereafter be granted in respect of the same land, in the event of the parties failing to agree upon compensation for injury or damage to the surface rights either in the form of a specified interest in the mineral rights or ore or mineral, to be secured to the owner of the surface rights, or by payment or agreement to pay in money, or the giving of security, the Director of the Bureau of Mines shall order and prescribe the manner in which compensation for the damage or injury to the surface and surface rights shall be ascertained, paid or secured.

(2) For the purposes aforesaid the said Director is empowered to appoint a valuator or valuers, arbitrator or arbitrators, who shall have all the powers for the purposes for which he or they shall be appointed of an arbitrator or arbitrators under any Act of the Legislature, or he may direct that such compensation shall be ascertained by suit or action in any County or District Court. 55 V. c. 9, s. 20.

Right of entry of prospectors limited.

43. No person shall have the right of entry as prospector or explorer upon the surface rights of that portion of any lot used as a garden, orchard, vineyard, nursery, plantation or pleasure ground, or upon which crops that may be damaged by such entry are growing, or on which is situated any spring, artificial reservoir, dam or waterworks, or any dwelling-house, out-house, manufactory, public building, church or cemetery, unless with the written consent of the owner, lessee or locatee, or of the person in whom the legal estate therein is vested. 55 V. c. 9, s. 21.

PART III.—MINING CLAIMS.

MINING DIVISIONS.

Mining divisions, how to be declared.

44. The Lieutenant-Governor in Council may from time to time by Order in Council declare any tract of country therein described to be a mining division; and by any subsequent Order in Council may from time to time extend, add to or diminish the limits of the division, or may otherwise amend any such Order in Council, or may cancel the same; and from and after the publication in the *Ontario Gazette* of an Order in Council declaring a tract of country to be a mining division, the mining division therein mentioned and described and all mines on Crown lands situate in the division shall be subject to the provisions of this Act, and to any regulations to be made under this Act. 55 V. c. 9, s. 24.

MINER'S LICENSE.

Miner's license.

45.—(1) The Director of the Bureau of Mines may, on payment of a fee of \$10, grant to any person applying for the same a license to be called a "miner's license."

(2) Every miner's license shall be in force for one year from the date thereof and shall not be transferable, except with the consent of the Director of the Bureau of Mines; and only one person shall be named therein, who shall be called the licensee, and who, before the expiration of the license, or within ten clear days thereafter, and not afterwards, shall have the right to a renewal of the license by the Director of the Bureau on payment to him of the like fee of \$10, or such other sum as may then be the fee fixed by law or regulation for a miner's license; but in the case of a remote mining division, the Commissioner of Crown Lands may authorize and empower the Inspector of the division to issue or renew such license, subject to the conditions and requirements of this section or any regulation thereunder.

Duration, etc.
of license.

(3) A miner's license may be in the following form:—

Form of
license.

PROVINCE OF ONTARIO.

No.	(Name of Division)	Mining Division.	\$
	Bureau of Mines.	(Date)	18
Miner's License.			

Issued to *A. B.*, in consideration of the payment of a fee of ten dollars, under the provisions of *The Mines Act*, to be in force for one year from the date hereof.

C. D.,
Director.

(4) A miner's license shall not be renewed until the fee of \$10 has been paid. 57 V. c. 16, s. 4, part.

Payment to
precede re-
newal.

46. A miner's license shall authorize the licensee personally, and not through another, to mine during one year from the date of the license, and from the date of any renewal thereof, on any mining claim marked or staked out by such licensee on Crown lands, as hereinafter provided; but any person or persons not occupying any other mining claim may be employed by the licensee to assist him in working such claim, or the licensee may organize a company to work the same. 55 V. c. 9, s. 30; 57 V. c. 16, s. 5.

Powers of
licensee
under license.

STAKING OUT AND HOLDING MINING CLAIMS.

47. A licensee who discovers a vein, lode or other deposit of ore or mineral within the division mentioned in his license, shall have the right to mark or stake out thereon a mining claim, providing that it is on Crown lands not withdrawn from location or exploration and is not included in a claim occupied by another licensee, or on lands the mines, minerals and mining rights whereof have been reserved by the Crown, and shall have the right to work the same or to transfer his interest therein to another licensee; and in case

Right of
licensees to
stake out
claims and
work same.

the surface rights have been granted, leased or located by the Crown to another person, the licensee must proceed as provided in section 42 of this Act. 60 V. c. 8, s. 14 (1).

How staked out.

48. A mining claim shall be deemed to be marked or staked out when a discovery post of wood or iron on which is written or stamped the name of the licensee is planted upon an outcropping or other indication of ore or mineral within the boundaries of the said claim, and a post of wood or iron is planted at each of the four corners in the order following, viz.: No. I at the northeast corner, No. II at the southeast corner, No. III at the southwest corner and No. IV at the northwest corner, the number in each case to be on the side of the post turned towards the post which follows in the order in which they are named; and if one or more corners of a claim fall in any situation where the nature or shape of the ground renders the planting of a post or posts impracticable, such corner or corners may be indicated by placing at the nearest suitable point a witness post, which in that case shall contain the same marks as those prescribed herein for corner posts, together with the letters W. P. and an indication of the bearing and distance of the site of the true corner from such witness post. 60 V. c. 8, s. 14 (2).

Not more than one claim to be staked out on same vein.

49. No more than one claim shall be staked out by any individual licensee upon the same vein, lode or deposit of ore or mineral, unless such claim is distant at least three miles from the nearest known mine or discovery on the same vein or lode. 60 V. c. 8, s. 14 (3).

Dimensions of mining claims.

50—(1). A mining claim shall be a square of fifteen chains, or 990 feet, containing twenty-two and one-half acres.

How to be laid out.

(2) Each mining claim shall be laid out with boundary lines running north and south and east and west astronomically, and the measurements of each claim shall be horizontal, and the ground included in each claim shall be deemed to be bounded under the surface by lines vertical to the horizon.

Water power not to be deemed included.

(3) A valuable waterpower lying within the limits of a claim shall not be deemed as part of it for the uses of the licensee. 60 V. c. 8, s. 14 (4).

Forfeiture of claims by failure to notify Inspector and to furnish plan.

51.—(1) Every Inspector appointed under this Act shall keep a book for the recording therein of mining claims, which book shall be open to inspection by any person on payment of a fee of twenty cents; and every licensee who has marked or staked out a mining claim under this Act shall within thirty days thereafter supply to the Inspector of the division an outline sketch or plan thereof showing the discovery post and the corner posts, and the witness posts (if any), and their distances from each other in feet, together with a notice in writing setting forth the name of the licensee and the number of his

license, the name (if any) of the claim and its locality as indicated by some general description or statement, the time when the same was marked or staked out, the length of the boundary lines if for any cause they are not regular and the nature of such cause, the situation of the discovery post as indicated by distance and direction from the first corner post, and the date of the record; and the Inspector shall forthwith enter the particulars of the notice in his book, and shall file the notice and sketch or plan with the records of his office;

(2) If the licensee fails to comply with the provisions of this section so far as the same relate to him, the mining claim so marked or staked out shall be deemed to be forfeited and abandoned, and all right of the licensee therein shall cease. 55 V. c. 9, s. 34; 60 V. c. 8, s. 15, and c. 3, s. 3.

52.—(1) A mining claim shall also be deemed to be forfeited and abandoned, and all right of the licensee therein shall cease, in case the mining claim remains unworked for the space of three months after the same has been first marked or staked out as aforesaid, or if the same at any time, after the expiration of three months, remains unworked for the period of fifteen days.

Forfeiture by allowing claim to remain unworked.

(2) Provided, however, that in case it is shown to the satisfaction of the Inspector of the division, either before the expiration of the respective periods aforesaid or within fifteen days thereafter, that the non-working of such claim arose from the illness of the licensee, or other reasonable cause satisfactory to the Inspector, he may extend the time during which the mining claim may remain unworked for such further period as he thinks reasonable, and may in like manner thereafter, for reasonable cause established to his satisfaction, grant further extensions of the time during which the claim may remain unworked without being liable to forfeiture; and the Inspector shall forthwith enter in the said book all such extensions of the time granted by him and shall report all such extensions.

Proviso.

(3) Provided also that in those parts of the Province lying to the north of French River, Lake Nipissing and Mattawa River, and extending thence to the western limits of the Province, no forfeiture shall be incurred by reason of the non-working of a mining claim between the first day of December and the first day of April following; but in any case actual mining operations must be carried on upon claims taken up in the said territory for at least eight months in every calendar year, saving as is provided herein. 55 V. c. 9, s. 35; 57 V. c. 16, s. 6; 60 V. c. 8, s. 16.

Proviso: s to northern districts.

53. No mining claim within a division shall be considered unworked, within the meaning of the preceding section, during

Exception where suspension of work authorized.

the time that an Order in Council directs that work on mining claims within such mining division may be suspended. 55 V. c. 9, s. 36.

License to be exhibited to Inspector on demand.

54. Every licensee shall produce and exhibit his license to the Inspector for the division, and prove to the satisfaction of the Inspector that it is in force, whenever required by him so to do. 55 V. c. 9, s. 38.

Party walls to be left between claims, and kept clear for use as roads.

55. A party wall of at least fifteen feet thick shall be left between adjoining claims on Crown lands, which party wall shall be used in common by all parties as a roadway for all purposes for which the same may be required and as a mode of access to the stream, lake or pond, where one exists; and the party wall shall not be obstructed by any person throwing soil, stone or other material thereon; and every person so obstructing the party wall shall be liable to a fine of not more than \$5 and costs; and in default of payment of the fine and costs, to be imprisoned for any period not exceeding one month. 55 V. c. 9, s. 41; 60 V. c. 8, s. 18.

Penalty.

Person removing party wall to construct new roadway.

56. If at any time it is found necessary or expedient to remove a party wall as aforesaid, the person so removing it shall, if required so to do, construct a new roadway in no wise more difficult as an approach than the one destroyed by the removal of the party wall, under a like penalty as provided in the next preceding section; and in case of a removal of a party wall the minerals found therein shall belong to the owners of the adjoining claims, each of whom shall own the half next his claim. 55 V. c. 9, s. 42; 60 V. c. 8, s. 19.

Crown lands licensees not to damage other claims.

57. No person mining upon Crown lands shall cause damage or injury to the holder of any claim other than his own by throwing earth, clay, stones or other material upon such other claim, or by causing or allowing water which may be pumped or bailed or may flow from his own claim to flow into or upon such other claim, under a penalty of not more than \$5 and costs; and in default of payment of the fine and costs, he may be imprisoned for any period not more than one month. 55 V. c. 9, s. 43.

Penalty.

ACT RESPECTING RIOTS NEAR PUBLIC WORKS.

Act respecting riots near public works to be in force in mining divisions.

58.—(1) The Lieutenant-Governor in Council may, as often as occasion requires, declare by proclamation that he deems it necessary that *The Act respecting Riots near Public Works* shall, so far as the provisions therein are applicable, be in force within any mining division or divisions; and upon, from and after the day to be named in any such proclamation, section 1 and sections 3 to 11 inclusive of the said Act shall, so far as the provisions thereof can be applied therein, take effect with-

Rev. Stat., c. 38.

in the mining division or mining divisions designated in the proclamation; and the provisions of the said Act shall apply to all persons employed in any mine, or in mining within the limits of such mining division or divisions, as fully and effectually to all intents and purposes as if the persons so employed had been specially mentioned and referred to in the said Act.

(2) The Lieutenant-Governor in Council may in like manner from time to time declare the said Act to be no longer in force in such mining division or divisions; but this shall not prevent the Lieutenant-Governor in Council from again declaring the said Act to be in force in any such mining division or mining divisions; but no such proclamation shall have effect within the limits of any city. 55 V. c. 9, s. 47.

PART IV.—MINING REGULATIONS.

APPLICATION OF PART.

59. This Part shall apply to all mines, quarries and pits, and to oil, gas and salt wells, and other openings from which ores or minerals of any kind or class are raised or taken, and to all furnaces or works for smelting or otherwise treating ores, rocks, clays, sands, oils, brines or other minerals for any economic object; and all owners or agents of such mines, quarries, pits, wells, furnaces and works shall observe and keep the provisions of this Part, and in case of non-observance thereof shall incur the penalties provided therefor by section 80. 59 V. c. 13, s. 2.

Application of
Part IV.

EMPLOYEES.

60. No boy under the age of fifteen years shall be employed in or allowed to be for the purpose of employment in any mine to which this Act applies below ground; and no girl or woman shall be employed at mining work or allowed to be for the purpose of employment at mining work in or about any mine. 55 V. c. 9, s. 54.

Employment
of women and
children.

61.—(1) No boy or young male person of the age of fifteen and under the age of seventeen years shall be employed or allowed to be for the purpose of employment in any mine to which this Part applies below ground on Sunday or for more than forty-eight hours in any one week, or more than eight hours in any one day.

Hours of em-
ployment of
boys.

(2) The period of such employment, and the time during which any such boy or person may be below ground for the purpose of employment shall respectively be deemed to begin at the time of leaving the surface, and to end at the time of returning to the surface.

(3) A week shall mean the period between midnight on Sunday night and midnight on the succeeding Saturday night. 55 V. c. 9, s. 55; 60 V. c. 8, s. 22.

Register to be kept of lads employed.

62. The owner or agent of every mine to which this Part applies shall keep in the office at the mine, or in the principal office of the mine belonging to the same owner in the district in which the mine is situated, a register, and shall cause to be entered in such register the name, age, residence and date of the first employment of all boys or young male persons of the age of fifteen and under the age of seventeen years who are employed in the mine below ground, and shall produce such register to any Inspector at the mine at all reasonable times when required by him, and allow him to inspect and copy the same. The immediate employer of every boy or male young person of the age aforesaid, other than the owner or agent of the mine, before he causes such boy or male young person to be in any mine to which this Part applies below ground, shall report to the owner or agent of such mine, or some person appointed by such owner or agent, that he is about to employ such boy or young male person in the said mine. 55 V. c. 9, s. 56.

Age and sex of persons in connection with engines.

63. Where there is a shaft, inclined plane, or level in any mine to which this Part applies, whether for the purpose of an entrance to such mine or of a communication from one part to another part of such mine, and persons are taken up, down or along such shaft, plane or level by means of any engine, windlass or gin, driven or worked by steam or by any mechanical power, or by an animal, or by manual labor, no person shall be allowed to have charge of such engine, windlass or gin, or of any part of the machinery, ropes, chains or tackle connected therewith, unless he is a male of at least twenty years of age. Where the engine, windlass or gin is worked by an animal, the person under whose direction the driver of the animal acts shall for the purposes of this section be deemed to be the person in charge of the engine, windlass or gin, and no person shall be employed as such driver who is under sixteen years of age. 55 V. c. 9, s. 57.

Penalty for employment of persons contrary to Act.

64. If any person contravenes any provision of the four next preceding sections of this Act, he shall be guilty of an offence against this Act, and in case of any such contravention, by any person whomsoever in the case of any mine, the owner and the agent of such mine shall each be guilty of an offence against this Act, unless such owner or agent proves that he had taken all reasonable means to prevent such contravention by publishing and to the best of his power enforcing the provisions of this Act. 55 V. c. 9, s. 58 (1).

Where person under age employed on false representation.

65. If it appears that a boy or young person or any person employed about an engine, windlass or gin, was employed on the representation of his parent or guardian that he was of an age at which his employment would not be in contravention of this Act, and under the belief in good faith that he was of that age, the owner or agent of the mine and the imme-

diat employer shall be exempted from any penalty, notwithstanding such boy or other person was not of an age at which his employment as aforesaid is authorized by this Act, provided such owner, agent or employer shall immediately upon discovery of the fact discharge such boy from such employment, but the parent or guardian shall for the misrepresentation aforesaid be deemed guilty of an offence against this Act. 55 V. c. 9, s. 58 (2); 60 V. c. 8, s. 23.

PAYMENT OF WAGES.

66.—(1) No wages shall be paid to any person employed in or about any mine to which this Part applies at or within any public house, beer shop or place for the sale of any spirits, wine, beer or other spirituous or fermented liquor, or other house of entertainment, or within any office, garden or place belonging or contiguous thereto or occupied therewith. Prohibition of payment of wages at public houses, etc.

(2) Every person who contravenes, or permits any person to contravene this section shall be guilty of an offence against this Act, and in the event of any such contravention by any person whomsoever the owner and agent of the mine in respect of which the wages were paid shall each be guilty of an offence against this Act, unless such owner or agent proves that he had taken all reasonable means to prevent such contravention by publishing and to the best of his power enforcing the provisions of this section. 55 V. c. 9, s. 59.

ANNUAL STATISTICAL RETURNS.

67.—(1) The owner or agent of every mine, quarry or other works to which this Part applies shall, on or before the 15th day of January in every year, send to the Bureau of Mines a correct return for the year ending on the preceding 31st day of December of the number of persons ordinarily employed in or about such mine below ground and above ground respectively, and distinguishing the different classes and ages of the persons so employed whose hours of labor are regulated by this Act, the average rate of wages of each class and the total amount of wages paid during the year, the quantity in standard weight of the mineral dressed, and of the undressed mineral which has been sold, treated or used during such year, and the value or estimated value thereof; and the owner or agent of every metalliferous mine shall if required make similar returns at the end of each month or quarter of the calendar year for such month or quarter in order that the same may be tabulated for publication by the Director of the Bureau under the instructions of the Commissioner of Crown Lands. Annual returns by owners and agents of mines.

(2) For the purpose of collecting the data of such statistics the Director of the Bureau of Mines shall prepare the required Provision for monthly or quarterly returns. Schedules to be furnished by Director of Bureau.

schedules in such form as he may from time to time deem desirable, and send the same by mail to be filled up and returned by the owner or agent of every such mine, quarry or works in the Province. 55 V. c. 9, s. 60 (1, 2); 59 V. c. 13, s. 3 (1); 60 V. c. 8, s. 24.

(3) Every owner or agent of a mine, quarry or other works who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act. 55 V. c. 9, s. 60 (3): 59 V. c. 13, s. 3 (2).

PREVENTION OF ACCIDENTS.

Fencing of
abandoned
or unworked
mine.

68. For the prevention of accidents where any mine has been abandoned or the working thereof has been discontinued, the owner or lessee or other person interested in the minerals of the mine shall cause the top of the shaft and all entrances from the surface, as well as all other pits and openings dangerous by reason of their depth, to be and to be kept securely fenced; and if any person fails to act in conformity with this section he shall be guilty of an offence against this Part, and any shaft, entrance, pit or other opening which is not fenced as aforesaid shall be deemed to be a nuisance. 60 V. c. 8, s. 25.

GENERAL RULES.

General rules.

69. The following general rules shall so far as may be reasonably practicable be observed in every mine to which this Part applies.

Ventilation.

1. An adequate amount of ventilation shall be constantly produced in every mine to such an extent that the shafts, winzes, sumps, levels, underground stables and working places of such mine, and the travelling roads to and from such working places, shall be in a fit state for working and passing therein.

Gunpowder
and blasting.

2. Gunpowder, dualin, dynamite or other explosive or inflammable substance shall only be used underground in the mine as follows:

- (a) It shall not be stored in the mine in any quantity exceeding what would be required for use during six working days.
- (b) It shall not be taken for use into the workings of the mine except in a securely covered case or canister, containing not more than eight pounds.
- (c) A workman shall not have at any time at any place where the same is being used more than one such case or canister.

(d) In charging holes for blasting, unless in mines excepted from the operation of this section by the Commissioner of Crown Lands, an iron or steel pricker shall not be used, and no person shall have in his possession in the mine underground any iron or steel pricker, and an iron or steel tamping rod or stemmer shall not be used for ramming either the wadding or the first part of the tamping or stemming on the powder.

(e) A charge of powder which has missed fire shall not be unrammed.

(f) A charge which has missed fire may be drawn by a copper pricker, but in no case shall any iron or steel tool be used for the purpose of drawing or drilling out a charge. 55 V. c. 9, s. 74 (1—2).

3. No gunpowder, dualin, dynamite or other explosive shall be used to blast or break up ore in roast heaps where by reason of the heated condition of such ore or otherwise there is any danger or risk of premature explosion of the charge. 57 V. c. 16, s. 10, part.

4. Every underground plane on which persons travel which is self-acting, or worked by an engine, windlass or gin, shall be provided at intervals of not more than twenty yards with sufficient man-holes for places of refuge, and every such plane which exceeds thirty yards in length shall also be provided with some proper means of signalling between the stopping places and the ends of the plane. 55 V. c. 9, s. 74 (3). Man-holes in self-acting or engine planes

5. Every road on which persons travel underground where the produce of the mine in transit ordinarily exceeds ten tons in any one hour over any part thereof, shall be provided at intervals of not more than one hundred yards with sufficient spaces for places of refuge, each of which spaces shall be of sufficient length, and of at least three feet in width between the waggons running on the tramroad and the side of the road; and the Commissioner of Crown Lands may, if he sees fit, require the Inspector to certify whether the produce of the mine in transit on the road aforesaid does or does not ordinarily exceed the weight as aforesaid, and such certificate shall be conclusive as to the matters therein stated. 55 V. c. 9, s. 74 (4); 60 V. c. 8, s. 28, part. Refuges in tramroads

6. Every man-hole and space for a place of refuge shall be constantly kept clear, and no person shall place anything in a man-hole or in such space in such a position as to prevent convenient access thereto. 55 V. c. 9, s. 74 (5); 60 V. c. 8, s. 28, part. Keeping refuges clear

7. The top of every shaft which was opened before the commencement of the actual working for the time being of the mine and has not been used during such actual working shall, Fencing of old shafts and other openings.

unless the Inspector otherwise permits, be securely fenced, and the top of every other shaft which for the time being is out of use, or used only as an air shaft, and all other pits or openings dangerous by reason of their depth upon which work has been discontinued, shall also be securely fenced. 55 V. c. 9, s. 74 (6); 60 V. c. 8, s. 28, part.

Fencing of
entrances to
shafts.

8. The top and all entrances between the top and bottom of every working or pumping shaft shall be properly fenced, but this shall not be taken to forbid the temporary removal of the fence for the purpose of repairs or other operations, if proper precautions are used.

Securing of
shafts.

9. Where the natural strata are not safe, every working or pumping shaft, adit, tunnel, drive, roadway or other workings shall be securely cased, lined or timbered, or otherwise made secure.

Safety from
water.

10. Every mine shall be provided with proper and sufficient machinery and appliances for keeping such mine free from water, the accumulation or flowing of which might injuriously affect any other mine.

Division of
shaft.

11. Where one portion of a shaft is used for the ascent and descent of persons by ladders or by a man engine, and another portion of the same shaft is used for raising the material being mined, the first mentioned portion shall be cased or otherwise securely fenced off from the last mentioned portion.

Signalling.

12. Every working shaft in which persons are raised which exceeds fifty yards in depth, shall, unless exempted in writing by the Inspector, be provided with guides and some proper means of communicating by distinct and definite signals from the bottom of the shaft, and from every entrance for the time being in work between the surface and the bottom of the shaft, to the surface, and also of communicating from the surface to the bottom of the shaft, and to every entrance for the time being in work between the surface and the bottom of the shaft.

Cover over-
head.

13. A sufficient cover overhead shall be used when lowering or raising persons in every working shaft, except where it is worked by a windlass, or where the person is employed about the pump or some work of repair in the shaft, or where a written exemption is given by the Inspector.

Chains.

14. A single linked chain shall not be used for lowering or raising persons in any working shaft or plane except for the short coupling chain attached to the cage or load.

Slipping of
rope on drum.

15. There shall be on the drum of every machine used for lowering or raising persons such flanges or horns, and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope from slipping.

16. There shall be attached to every machine worked by steam, water or other mechanical power, and used for lowering or raising persons, an adequate brake, and also a proper indicator (in addition to any mark on the rope) which will show to the person who works the machine the position of the cage or load in the shaft.

17. A proper footway or ladder, inclined at the most convenient angle which the space in which the ladder is fixed allows, shall be provided in every working shaft where no machinery is used for raising or lowering persons; and every such ladder shall have substantial platforms at intervals of not more than forty feet, and no such ladder shall be fixed for permanent use in a vertical or overhanging position unless in shafts used exclusively for pumping. In every mine in which vertical or overhanging ladders shall be in use in the shaft at the time these rules were first applied to it, such ladders may be retained if securely fixed platforms are constructed at intervals of not more than 30 feet from each other, and such ladders have sufficient spaces for footholds of not less than six inches.

18. If more than twelve persons are ordinarily employed in the mine below ground, sufficient accommodation shall be provided above ground near the principal entrance of the mine, and not in the engine house or boiler house, for enabling the persons employed in the mine to conveniently dry and change their clothes.

19. Every fly-wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced.

20. Every steam boiler shall be provided with a proper steam gauge and water gauge, to show respectively the pressure of steam and the height of water in the boiler, and with a proper safety valve.

21. No person shall wilfully damage, or without proper authority remove or render useless, any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety-valve, or other appliance or thing provided in any mine in compliance with this Act. 55 V. c. 9, s. 74 (7-20).

70. In any of the following cases namely :

1. Where any working is commenced for the purpose of opening a new shaft for any mine to which this Part applies ;
2. Where a shaft of any mine to which this Part applies is abandoned, or the working thereof discontinued ;
3. Where the working of a shaft of any mine to which this part applies is recommenced after an abandonment or discontinuance for a period exceeding two months ; or

Notice of changes in connection with the working of a mine or in respect of its officers, etc.

Inclination of ladders.

Dressing room.

Fencing machinery.

Gauges to boilers and safety-valves.

Wilful damage.

4. Where any change occurs in the name of a mine, or in the name of the owner or agent of a mine to which this Part applies, or in the officers of any incorporated company which is the owner of a mine to which this Part applies;

the owner or agent of such mine shall give notice thereof to the Inspector within two months after such commencement, abandonment, discontinuance, recommencement or change, and if such notice is not given the owner or agent shall be guilty of an offence against this Act. 55 V. c. 9, s. 62: 59 V. c. 13, s. 4.

NOTICE OF ACCIDENTS.

Notice of accidents in mines to be sent to Bureau of Mines.

71.—(1) Where in or about any mine to which this Act applies whether above or below ground, either

1. Loss of life or any personal injury to any person employed in or about the mine occurs by reason of any explosion of gas, powder or of any steam boiler; or
2. Loss of life or any serious personal injury to any person employed in or about the mine occurs by reason of any accident whatever,

the owner or agent of the mine shall within twenty-four hours next after the explosion or accident send notice in writing of the explosion or accident and of the loss of life, or personal injury occasioned thereby to the Director of the Bureau of Mines, and shall specify in such notice the character of the explosion or accident and the number of persons killed and injured respectively.

(2) Where any personal injury, of which notice is required to be sent under this section, results in the death of the person injured, notice in writing of the death shall be sent to the Inspector within twenty-four hours after such death comes to the knowledge of the owner or agent. Every owner or agent who fails to act in compliance with this section shall be guilty of an offence against this Act. 55 V. c. 9, s. 61.

Special report.

72. The Commissioner of Crown Lands may at any time direct an Inspector to make a special report with respect to any accident in a mine to which this Act applies, which accident has caused loss of life or personal injury to any person, and in such case shall cause such report to be made public at such time and in such manner as he thinks expedient; and in conducting an enquiry into the cause of loss of life or of personal injury to any person in or about a mine, the Inspector shall have power to take evidence upon oath. 55 V. c. 9, s. 67, part; 57 V. c. 16, s. 8.

PART V.—OFFENCES AND PENALTIES.

73. Any person who removes, or disturbs with intent to remove, any stake, picket or other mark placed under the provisions of this Act, shall forfeit and pay a sum not exceeding \$20 and costs; and in default of payment of the fine and costs, may be imprisoned for any period not exceeding one month. 55 V. c. 9, s. 45.

Penalty for removing picket.

74. Every person contravening Part III of this Act or any rule or regulation made under it, in any case where no other penalty or punishment is imposed, shall, for every day on which such contravention occurs, or continues, or is repeated, incur a fine of not more than \$20 and costs; and, in default of payment of the fine and costs, such person may be imprisoned for a period not exceeding one month. 55 V. c. 9 s. 48.

Penalty for contravening Part III.

75. Every person who pulls down, injures or defaces any rules, notice or abstract posted up by the owner or agent shall be guilty of an offence against this Act. 55 V. c. 9, s. 75.

Punishment for defacing notices.

76. Every person who wilfully obstructs an Inspector in the execution of his duty under this Act, and every owner or agent of a mine who refuses or neglects to furnish to the Inspector the means necessary for making any entry, inspection, examination or enquiry under this Act in relation to such mine, shall be guilty of an offence against this Act. 55 V. c. 9, s. 65 (2).

Penalty for obstructing inspector.

77. Where work of any sort in or about a mine is let to a contractor, he shall observe and carry out all the provisions of Part IV for the prevention of accidents, and if he contravenes any of such provisions he shall be guilty of an offence against this Act and shall be liable to the same penalties and may be proceeded against in the same way and to the same extent and effect as if he were an owner or agent. 57 V. c. 16, s. 9.

Responsibility of contractor to prevent accidents.

78. Every person who contravenes or does not comply with any of the general rules contained in section 69 shall be guilty of an offence against this Act, and in the event of any contravention of or non-compliance with any of the said general rules in the case of any mine to which this Act applies by any person whomsoever being proved, the owner and agent of such mine, and any contractor and foreman employed in or about such mine, shall each be guilty of an offence against this Act unless such contractor or foreman proves that he had taken all reasonable means to prevent such contravention or non-compliance by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine. 55 V. c. 9, s. 74 (21.); 57 V. c. 16, s. 10, part.

Contravention of rules to be an offence.

Where employees deemed guilty.

79. Every person other than the owner or agent employed in or about a mine who is guilty of any act or omission which in the case of the owner or agent would be an offence against Part IV shall be deemed to be guilty of an offence against the said Part. 55 V. c. 9, s. 69, part.

Penalties.

80. Every owner or agent guilty of an offence against Part IV shall be liable to a penalty not exceeding, except as in this section hereinafter provided, fifty dollars, and any other person guilty of an offence against Part IV aforesaid shall be liable to a penalty not exceeding, except as in this section hereinafter provided, ten dollars: Provided that if the Director of the Bureau of Mines or an Inspector has given written notice of any such offence having been committed, every such owner, agent or other person shall be liable to a further penalty not exceeding five dollars for every day that such offence continues after such notice. 55 V. c. 9, s. 69, part; 59 V. c. 13, s. 5.

Prosecution of owner or agent.

81. No prosecution shall be instituted against the owner or agent of a mine to which this Part applies for any offence under this Act except by an Inspector, or by the County or District Crown Attorney, or with the consent in writing of the Attorney-General; and in case the owner or agent of a mine is charged with an offence under this Act he shall not be found guilty thereof if he proves that he had taken all reasonable means to prevent the commission thereof, and an Inspector shall not institute any prosecution against an owner or agent if satisfied that he had taken such reasonable means as aforesaid. 55 V. c. 9, s. 71.

Inspector may convict on view.

82. Every Inspector for a mining division may convict upon view of any of the offences punishable under the provisions of Part III of this Act or any regulations made under it. 55 V. c. 9, s. 49.

Manner in which prosecutions may take place.

83. All prosecutions for the punishment of any offence under this Act except under section 18 may take place before any two or more of Her Majesty's Justices of the Peace having jurisdiction in the county or district in which the offence is committed, or before a Police or Stipendary Magistrate, or before an Inspector of the mining division, under the provisions of *The Ontario Summary Convictions Act*. 55 V. c. 9, ss. 52, 73. 60 V. c. 8, s. 21.

Rev. Stat. c. 90.

Limitation of prosecutions and form of information.

84. Any complaint or information made or laid in pursuance of this Act shall be made or laid within three months from the time when the matter of such complaint or information respectively arose, and

1. The description of any offence under this Act in the words of this Act shall be sufficient in law.

2. Any exception, exemption, proviso, excuse or qualification, whether it does or does not accompany the description of the offence in this Act, may be proved by the defendant, but need not be specified or negatived in the information, and if so specified or negatived no proof in relation to the matter so specified or negatived shall be required on the part of the prosecutor or informant. 55 V. c. 9, s. 70.

85. Nothing in this Act shall prevent any person from being indicted or liable under any other Act or otherwise to any other or higher penalty or punishment than is provided for any offence by this Act, provided that he shall not be punished twice for the same offence. 55 V. c. 9, s. 72 (1). Prosecution under other Acts.

86. If the Court before whom a person is charged with an offence under this Act thinks that proceedings ought to be taken against such person for such offence under any other Act or otherwise, the Court may adjourn the case to enable such proceedings to be taken. 55 V. c. 9, s. 72 (2). Where prosecution should be under another Act.

87. Fees, penalties and fines received under this Act, and the costs of all such convictions as take place before any Inspector or magistrate appointed under this Act, shall form part of the Consolidated Revenue Fund of this Province, and be accounted for and dealt with accordingly; and the expenses of carrying this Act into effect in any mining division shall be paid by the Lieutenant-Governor out of the said Consolidated Revenue Fund. 55 V. c. 9, s. 51. Application of fees, fines and penalties.

3. PUBLIC WORKS.

CHAPTER 37.

An Act respecting the Public Works of Ontario.

INTERPRETATION, s. 1.	PROVISIONS FOR COMPENSATION OF OWNERS, ss. 25-48.
DEPARTMENT OF PUBLIC WORKS, s. 2.	POWER TO ALTER LINE OF PUBLIC
OFFICERS AND THEIR DUTIES, ss. 3-10.	ROADS, s. 49.
CONTRACTS, HOW MADE AND ENFORCED, ss. 11, 12.	POWER TO REMOVE FENCES OR MAKE DITCHES, s. 50.
POSSESSION OF MAPS, ETC. s. 13.	DRAINAGE OF LANDS, s. 51-57.
PROPERTY UNDER CONTROL OF THE DEPARTMENT, ss. 14-18.	OFFICIAL ARBITRATORS, ss. 58-61.
DUTIES OF COMMISSIONER OF PUBLIC WORKS, ss. 19-24.	CASES IN WHICH ARBITRATION MAY BE HAD, ss. 62-65.
POWERS AS TO TAKING POSSESSION OF LANDS FOR PUBLIC WORKS AND	POWERS OF ARBITRATORS AND PROCEDURE ON ARBITRATIONS, ss. 66-72.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

Interpretation.

1. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

“Conveyance”

1. “Conveyance” shall include a surrender to the Crown; and any conveyance to the Crown or to the Commissioner of Public Works, or any officer of that Department, in trust for or to the use of the Crown, shall be held to be a surrender;

“Surrender.”

“Land” and “Property.”

2. “Land” and “Property” shall include real rights, easements, servitudes and all other things for which compensation is to be paid by the Crown under this Act. R. S. O. 1887, c. 33, s. 1.

2. There shall continue to be a Department of Public Works for Ontario, over which the Commissioner of Public Works for the time being, appointed by commission under the Great Seal, shall preside. R. S. O. 1887, c. 33, s. 2. Department and Commissioner of Public Works.

3. The Lieutenant-Governor may also appoint an Architect, an Engineer, a Secretary, a Law Clerk, an Accountant, and such other officers as may be necessary for the proper conduct of the business of the Department. R. S. O. 1887, c. 33, s. 3. Officers.

4. The Lieutenant-Governor may also appoint, from time to time, as many architects, engineers, surveyors, clerks of works, superintendents, lockmasters, bridge-tenders, servants, and other officers as he may deem necessary for the construction, maintenance, use and repair of Public Works, and the property, real or personal, connected therewith or belonging thereto. R. S. O. 1887, c. 33, s. 4. Appointment of officers and servants.

5. The Commissioner shall have the management of the Department, and it shall be his duty to oversee and direct the other officers and the servants of the Department; and he shall have such other powers and duties as may be assigned to him by the Lieutenant-Governor in Council, and may suspend from duty any officer or servant of the Department who refuses or neglects to obey his instructions as Commissioner. R. S. O. 1887, c. 33, s. 5. Duties and powers of the Commissioner.

6. It shall be the duty of the Architect to prepare plans, drawings, specifications and estimates, for all public buildings and the works connected therewith, and the grounds thereto belonging, which are about to be constructed, altered, repaired or laid out by the Department; and, in respect thereof, to report for the information of the Commissioner on any question which may be submitted to him; to examine and revise the plans, drawings, specifications, estimates and recommendations of other architects and officers; to prepare all certificates, and to check and verify all accounts; to conduct all architectural correspondence; to transmit to the Secretary all outward correspondence to be copied in the Public Works' Letter Book, and all documents that require to be filed or registered; to make an annual report to the Commissioner; and generally to advise the Department on all architectural questions submitted to him by the Commissioner. R. S. O. 1887, c. 33, s. 6. Duties of Architect.

7. It shall be the duty of the Engineer to prepare maps, plans, drawings, specifications and estimates of all Public Works and lands thereto belonging, which are about to be constructed, altered, repaired, laid out or surveyed by the Department, except those which are by the preceding section, placed under the direction of the Architect; and in respect of such Public Works and lands, to report for the information of the Commissioner on any question which may be Duties of Engineer.

submitted to him ; to examine and revise the maps, plans, drawings, specifications, estimates and recommendations of other engineers, surveyors and officers ; to prepare all certificates and to check and verify all accounts ; to conduct all engineering correspondence ; to transmit to the Secretary all outward correspondence to be copied in the Public Works' Letter Book, and all documents that require to be filed or registered ; to make an annual report to the Commissioner ; and generally to advise the department on all engineering questions submitted to him by the Commissioner. R.S.O.1887, c. 33, s. 7.

Duties of
Secretary.

8. It shall be the duty of the Secretary to conduct all general correspondence connected with the Department, under the instructions of the Commissioner ; to see that all accounts are prepared in duplicate, and that one copy of each, properly certified and approved is sent to the Provincial Treasurer for submission to the Executive Council ; to file all accounts and documents ; to keep the ordinary indexes and also one "Subject Matter Index of the Letter Books and Register ;" to sign requisitions for office supplies and contingencies ; to prepare the Departmental pay list, to have charge of the Departmental seal, and generally to do and perform all such acts and things pertaining to the business of the Department as he may from time to time be directed to do and perform by the Commissioner ; and a copy of any map, plan or document in the Department certified by him to be a true copy, and sealed with the seal of the Department, shall be held to be authentic, and shall be *prima facie* evidence of the same legal effect as the original in any Court or elsewhere. R. S. O. 1887, c. 33, s. 8.

Duties of Law
Clerk.

9. It shall be the duty of the Law Clerk to prepare all contracts, bonds, deeds and documents of a legal nature relating to Public Works, and to see that the same are properly executed ; to conduct legal correspondence ; and generally to advise the Department on all legal questions relating to Public Works and the property connected therewith, which may be submitted to him by the Commissioner. R. S. O. 1887, c. 33, s. 9 ; 53 V. c. 11, s. 1.

Duties of
Accountant.

10. It shall be the duty of the Accountant to check all accounts relating to Public Works, and to mark thereon the appropriations to which the same are properly chargeable, and to keep all necessary books and accounts relating to appropriations for Public Works, and the expenditure in respect thereof. R. S. O. 1887, c. 33, s. 10.

What acts
only shall bind
the Depart-
ment.

11. The Commissioner shall have power to enter into any contract with any person that may be necessary or advisable in carrying out the provisions of this Act, or any of them ; but no deeds, contracts, documents or writings shall be deemed to be binding on the Department, or shall be held to be the acts of the Commissioner, unless signed and sealed with the seal of the Department by him. R. S. O. 1887, c. 33, s. 11.

12. All actions and other proceedings for the enforcement of any contract, for the recovery of damages for any tort or breach of contract, or for the trial of any right, in respect of property, real or personal, under the control of the Department, shall be instituted in the name of Her Majesty's Attorney-General for the Province. R. S. O. 1887, c. 33, s. 12.

Actions for enforcing contracts, etc.

13. The Lieutenant-Governor may require any person or any Provincial officer, having the possession of maps, plans, specifications, estimates, reports or other papers, books, drawings, instruments, models, contracts, documents or records, not being private property, and relating to any Public Work, to deliver the same without delay to the Secretary of the Department. R. S. O. 1887, c. 33, s. 13.

Possession may be required of maps, etc., relating to Public Works.

14. All land, streams, water-courses and property, real or personal, heretofore or hereafter acquired for the use of Public Works; all canals, locks, dams, hydraulic works, harbours, piers and other works for improving the navigation of any water; all slides, dams, piers, booms and other works for facilitating the transmission of timber; all hydraulic powers created by the construction of any Public Works; all roads and bridges; all public buildings; all railways and rolling stock thereon; all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation; all drains and drainage works, and all property heretofore or hereafter acquired, constructed, repaired, maintained or improved at the expense of the Province, and not under the control of the Dominion Government, shall be and remain vested in Her Majesty and under the control of the Department of Public Works. R. S. O. 1887, c. 33, s. 14.

What property, etc., to be under control of Department.

15. The Lieutenant-Governor may from time to time, by proclamation, declare any other property, real or personal, and any works, roads, bridges, harbours, slides or buildings, or other things specified in the next preceding section, and purchased or constructed at the public expense, to be Public Works, subject to the provisions of this Act, and they shall thenceforth be vested in Her Majesty and under the control of the Department. R. S. O. 1887, c. 33, s. 15.

Other property, etc., may be so declared by proclamation.

16.—(1) Any property, real or personal, when no longer required for the use of any Public Work, may be sold, leased or disposed of under the authority of the Lieutenant-Governor.

Property not required may be sold.

(2) Such property shall be so sold, leased or disposed of by tender or public auction, except leases for a term not exceeding five years, which leases may be made without tender or public auction; and the proceeds of all sales, leases and dispositions shall be accounted for as public money. R. S. O. 1887 c. 33, s. 16.

Contracts to
enure to use
of Her
Majesty.

17. Contracts respecting any Public Work or property, real or personal, under the control of the Department, heretofore or hereafter entered into by the Commissioner, or by any other person duly authorized to enter into the same, shall enure to the use of Her Majesty, and may be enforced as if they had been entered into with her Majesty under the authority of this Act. R. S. O. 1887, c. 33, s. 17.

Public Works
to be under
control of De-
partment.

18. Public Works hereafter constructed or completed at the expense of the Province shall, unless otherwise provided by law, be under the control of the Department and subject to the provisions of this Act. R. S. O. 1887, c. 33, s. 18.

Commissioner
to have direc-
tion of Public
Works.

19. The Commissioner shall direct the construction, main-tenance and repair of all Public Works in progress, or constructed or maintained at the expense of the Province, and which are by this Act, or may be hereafter, placed under the control of the Department. R. S. O. 1887, c. 33, s. 19.

Attesting ac-
counts.

20. The Commissioner may require any account sent in by any person employed by the Department to be attested on oath, which oath, as well as that to be taken by any witness, the Commissioner may administer. R. S. O. 1887, c. 33, s. 20.

Power to ex-
amine persons
on oath.

21. The Commissioner may send for and examine on oath all such persons as he deems necessary touching any matter upon which his action is required, and may cause such persons to bring with them such papers, plans, books, documents and things as it may be necessary to examine with reference to such matter, and may pay such persons a reasonable compensation for their time and disbursements; and such persons shall attend at the summons of the Commissioner after due notice, under the penalty of \$20 in each case. R. S. O. 1887, c. 33, s. 21.

Penalty.

Annual re-
port of Com-
missioner.

22. The Commissioner shall make and submit to the Lieutenant-Governor an annual report on all the works under the control of the Department, to be laid before the Legislative Assembly within twenty-one days from the commencement of each Session, shewing the state of each work and the amounts received and expended in respect thereof, with such further information as may be requisite to enable the Assembly to judge of the working of the Department. R. S. O. 1887, c. 33, s. 22.

Tenders to be
invited for
public works.
Exception.

23. It shall be the duty of the Commissioner to invite tenders by public advertisement for the construction and repair of all Public Works, except in cases of pressing emergency, where delay would be injurious to the public interest, or where, from the nature of the work, it can be more expeditiously and economically executed by the officers and servants of the Department. R. S. O. 1887, c. 33, s. 23.

24. The Commissioner, where a Public Work is being carried out by contract, and in all other cases, shall take all reasonable care that security be given to and in the name of Her Majesty for the due performance of the work within the amount and time specified for its completion; and in all cases where it seems to the Commissioner not to be expedient to let the work to the lowest bidder, it shall be his duty to report the same and obtain the authority of the Lieutenant-Governor before passing by the lowest tender; but no sum of money shall be paid to the contractor, nor shall any work be commenced on any contract until the contract has been signed by all the parties therein named, nor until the requisite security has been given. R. S. O. 1887, c. 33, s. 24.

Security to be taken from contractors.

Provision when lowest tender is not accepted.

POWER TO TAKE LANDS, ETC.

25. The Commissioner may authorize any engineer, agent, servant or workman employed by or under him to enter into and upon any land, to whomsoever belonging, and to survey and take levels of the same, and to make such borings or sink such trial-pits as he deems necessary for any purpose relative to the works under the control of the Department. R. S. O. 1887, c. 33, s. 25.

Power to enter on lands, make survey, etc.

26. The Commissioner may employ any engineer or person duly licensed or empowered to act as a surveyor for any Province in Canada, to make any survey or establish any boundary, and furnish the plans and description of any property acquired or to be acquired by Her Majesty for the use of the Province; and such surveys, boundaries, plans and descriptions shall have the same effect as if the operations pertaining thereto or connected therewith had been performed by a duly authorized Ontario Land Surveyor. R. S. O. 1887, c. 33, s. 26; 55 V. c. 34, s. 3.

Certain persons employed by the Department as surveyors to have same powers as licensed surveyors.

27. The boundaries of such property may be permanently established by means of proper stone or iron monuments planted by the engineer or surveyor so employed by the Commissioner, and shall be of the same effect to all intents and purposes as if such boundaries had been drawn and such monuments planted by a duly authorized Ontario Land Surveyor and shall be held to be the true and unalterable boundaries of such property; but the boundary lines shall be so established and the monuments of iron or stone be planted only after due notice thereof has been given in writing to the owners of the lands to be thereby affected, and a written description of such boundaries shall be approved and signed in the presence of two witnesses, by such engineer or surveyor on behalf of the Commissioner and by the other parties concerned, or, in case of the refusal of any party to approve or sign the same, the refusal shall be recorded in such written description: and the boundary marks or monuments shall be planted in the presence of at least one

Establishment of boundaries of property acquired by Her Majesty.

witness, who shall sign the said written description, which shall afterwards be deposited with the Secretary of the Department as part of the records of the office. R. S. O. 1887, c. 33, s. 27 ; 55 V. c. 34, s. 3.

Power to take
materials from
uncleared
lands, etc.

28. The Commissioner and his agents may enter upon any uncleared or wild land, and take therefrom all timber, stones, gravel, sand, clay, or other materials which he or they may find necessary for the construction, maintenance, and repair of Public Works, or property, real or personal, under the control of the Department ; or may lay any materials upon any such land ; and the Commissioner may construct, take and use all such temporary roads to and from such timber, stones, gravel, sand, clay, or other materials as may be required by him or his agents for the convenient passing to and from the works during their construction and repair ; and may enter upon any land for the purpose of making proper drains to carry off the water from any Public Work, or for keeping such drains in repair. R. S. O. 1887, c. 33, s. 28.

Power to ac-
quire lands,
etc.

29. The Commissioner of Public Works may acquire and take possession, for and in the name of Her Majesty, of any land or real estate, streams, waters, water-courses, fences and walls, the appropriation of which is in his judgment necessary or expedient for the use, construction or maintenance of any Public Work or building ; or for the purpose of draining any public building, or for the sewerage service thereof ; or for the use, construction or maintenance of hydraulic privileges made or created by, from or at any Public Work ; or for the purpose of draining ; or for the enlargement or improvement of any Public Work, or for obtaining better access thereto ; or for any other public purposes authorized by the Legislature or by the Lieutenant-Governor, and to whatever Department of the Government the purpose may pertain ; and the Commissioner may, for such purpose, contract with all persons, guardians, tutors, curators and trustees, whatsoever, not only for themselves, their heirs, successors and assigns, but also for and on the behalf of those whom they represent, whether infants, absentees, lunatics, or other persons otherwise incapable of contracting, possessed of or interested in such lands, real property, streams, waters and water-courses ; and all such contracts, and all conveyances or other instruments made in pursuance of any such contract, shall be valid to all intents and purposes whatsoever. R. S. O. 1887, c. 33, s. 29.

Trustees, etc.,
enabled to
contract.

Taking posses-
sion where
parties under
disability.

30. In case the owner of land or other property, the acquisition whereof is required as aforesaid, is under disability, and has no representative known to the Commissioner with whom a valid agreement can be made, the Commissioner may, without notice or tender of compensation, take possession of the said land, after such advertisement as is required where the owner does not reside on or near the property. R. S. O. 1887, c. 33, s. 30.

31.—(1) In case the owner of the land or property to be taken is an infant, or other person under disability, and has no guardian or committee legally authorized to represent his interest in the said land, the High Court or a Judge thereof, or the Judge of the County Court of the County in which the land lies, shall, upon the application by petition of the Commissioner, appoint some person to represent the interest of the infant or other person under disability, and shall determine the compensation to be paid by the Commissioner to the person so appointed for his services.

Application for representation of person under disability.

(2) Marriage shall not constitute a disability requiring an appointment to be made under this Act. R. S. O. 1887, c. 33, s. 31.

Marriage not such a disability.

32. No such appointment shall be required where the person under disability is only a part owner, and another person not under any disability, who is also a part owner, has agreed to sell, or has been served in this Province with a proposal to purchase, or a tender of purchase money, and in no such case shall it be necessary that the interest of an infant be represented in any dispute which may arise as to the value of the property taken. R. S. O. 1887, c. 33, s. 32.

When person under disability is only a part owner.

33. The preceding section shall not apply where the infant or other person under disability holds an estate of a different nature from that of the person not under disability, but shall apply in all cases where they are part owners of the same estate although in different proportions. R. S. O. 1887, c. 33, s. 33.

Where holds estate of different nature from part owner.

34. The Judge of the County Court, or such person as the High Court may direct, shall have authority to execute a conveyance for and in the name of any infant or other person under disability, whether the case requires or does not require the appointment of some person to represent the interest of the infant or other person under disability, and such execution shall be expressed to be under the authority of this Act. R. S. O. 1887, c. 33, s. 34.

Conveyance of lands of infants, etc.

35. Where any resistance or forcible opposition is offered or apprehended to possession being taken of any land, or to the exercise of any right authorized under this Act, the Judge of the County or District Court of the County or District in which the land to be taken, or in respect of which the right is to be exercised, lies, may issue his warrant to the Sheriff of the County or District, or to a bailiff, as he may deem most suitable, to put the Commissioner, his servants or agents, in possession, and to put down such resistance or opposition, which the Sheriff or bailiff, taking with him sufficient assistance, shall accordingly do. R. S. O. 1887, c. 33, s. 35.

Resistance to taking possession of land.

Compensation
may be deter-
mined by the
Official
Arbitrators.

36. The Commissioner may, if he thinks fit, in any case where any person is entitled to an arbitration under this Act, take such steps as may be necessary in order to have the amount of compensation determined by the Board of Official Arbitrators. R. S. O. 1887, c. 33, s. 36.

Payments
under
this Act.

37. Where, under and by virtue of this Act, any payment is to be made by the Commissioner of Public Works, the same shall be payable out of such moneys as may be voted by the Legislature of this Province for that purpose, and not otherwise, and the Commissioner shall not be in anywise personally liable therefor, or for any proceedings had or taken by virtue of this Act. R. S. O. 1887, c. 33, s. 37.

Compensation
to stand in the
place of land
taken without
consent of
owner, as to
all charges
thereon.

38. The compensation money agreed upon, paid into Court as hereinafter provided, or awarded by the Official Arbitrators, for lands or property acquired or taken by the Commissioner, and which may under this Act be taken by the Commissioner without the consent of the proprietor, shall stand in the stead of such lands or property; and any claim to or incumbrance upon such lands or property shall, as respects the Crown, be converted into a claim to the compensation money or to a proportionate amount thereof, and shall be void as respects the lands or property themselves, which shall, by the fact of the taking possession thereof under this Act, notwithstanding any irregularity in the previous proceedings, become and be absolutely vested in the Crown, as shall also any lands or property taken possession of by the Crown under this Act, whether there be or be not any conveyance, agreement or award respecting the same,—subject always to the determination of the compensation to be paid, and to the payment thereof when such conveyance, agreement or award has been made. R. S. O. 1887, c. 33, s. 38.

Compensation
may be paid
into Court
where person
entitled is un-
known, etc.

39. If the party conveying such lands or property could not without this Act, have conveyed the same or agreed for the compensation to be paid therefor, or if any owner or party to whom the compensation money or any part thereof is payable, refuses to execute the proper conveyance or other requisite instrument of transfer of the premises, or if the party entitled to claim the same cannot be found or is unknown to the Commissioner, or if the Commissioner has reason to fear any claim or incumbrance, or if for any other reason he deems it advisable, the Commissioner may pay such compensation money or award (or if there has been no compensation money agreed upon or amount awarded, then such sum of money as in the opinion of the Commissioner is sufficient compensation for such lands or property) into the High Court (with the interest thereon for six months), and may deliver to the Registrar or other proper officer of the Court a copy of the conveyance, or of the agreement or award, if there be no conveyance, certified by the Commissioner; and if there be neither conveyance

nor award, may deliver to the said officer a notice specifying the lands or property so acquired or taken. R. S. O. 1887, c. 33, s. 39.

40. A notice, in such form and for such time as the Court may appoint, shall be inserted by the officer of the Court in some newspaper, if there be any published in the District or County in which the lands are situate, which notice shall state that the title of the Crown (that is, the conveyance, agreement or award, or if there be none such, then the notice of the Commissioner to the said officer of the Court as hereinbefore provided,) is under this Act, and the notice so to be inserted shall call upon all persons entitled to the lands or to any part thereof, or representing any parties so entitled, or claiming to hold or represent incumbrances thereon or interests therein, to file their claims to the compensation or any part thereof. R. S. O. 1887, c. 33, s. 40.

Notice to parties interested by advertisement.

41. All such claims shall be received and adjudicated upon by the Court, and the said proceedings shall for ever bar all claims to the compensation or any part thereof, including any claim in respect of dower, as well as in respect of all mortgages or incumbrances upon the same; and the Court shall make such order for the distribution, payment or investment of the compensation, and for the securing of the rights of all parties interested, as to right and justice and according to the provisions of this Act and to law may appertain. R. S. O. 1887, c. 33, s. 41.

Court to distribute the compensation money.

42. The costs of the proceedings or any part thereof shall be paid by the Commissioner or by any other party as the Court may order, and if the order of distribution is obtained in less than six months from the payment of the compensation into Court, the Court shall direct a proportionate part of the interest to be returned to the Commissioner; and if from any error, fault or neglect of the Commissioner, it is not obtained until after the six months have expired, the Court shall order the Commissioner to pay into Court the interest for such further period as may be right. R. S. O. 1887, c. 33, s. 42.

As to costs of proceedings.

43. In any case where the price or compensation money agreed for or awarded does not exceed \$100, it may be paid to the party who, under this Act, can lawfully convey the lands or property, or agree for the compensation to be made in the case, with the same effect as if it had been paid into Court under this Act; saving always the rights of any other party to such compensation money as against the party receiving the same. R. S. O. 1887, c. 33, s. 43.

If compensation does not exceed \$100, how payable.

44. If a party entitled to compensation as aforesaid is dissatisfied with the amount so paid by the Commissioner into Court as aforesaid, the question of the amount of compensation

Arbitration if any party entitled is dissatisfied with amount paid into Court.

tion may be referred to the Board of Arbitrators, and proceedings thereon shall be had according to this Act, and the Commissioner may pay the amount of any award thereon into Court as the case may be, and the Court shall make such order as to the same as if it had been paid in as compensation, as hereinbefore mentioned. R. S. O. 1887, c. 33, s. 44.

Payment of
compensation.

45. Compensation, to be agreed on between the parties or appraised and awarded in the manner hereinafter set forth, for land, real or personal property, streams, water and water-courses, timber, stone or other material, or for damage thereto, shall, except where the same is paid into Court under section 39 of this Act, be made to the owner or occupier of the land or property, or to the person suffering damage as aforesaid, and shall be paid within six months after the amount of the compensation has been agreed on, or appraised and awarded; and where the compensation is paid into Court under the said section, the same shall be so paid into Court within the said time. R. S. O. 1887, c. 33, s. 45.

Abandonment
of proposed
purchase.

46. In case the Commissioner of Public Works has not taken possession of the land or property in respect of which compensation is awarded, he may, within one month after the publication of the award, elect to abandon the proposed purchase, and in that event the Commissioner shall pay to the owner or occupier all costs and charges reasonably incurred by him in and about the arbitration or other proceedings. R. S. O. 1887, c. 33, s. 46.

Notice and
tender before
taking pos-
session.

47. Where the owner or occupier refuses or fails to agree to convey his estate or interest in any land, real property, stream or water-course as aforesaid, the Commissioner may tender what he deems the reasonable value of the same, with notice that the question will be submitted to arbitration as hereinafter mentioned; and in every case the Commissioner may, three days after the agreement is executed, or tender and notice made and given, authorize possession to be taken of the land, real property, stream or water course so agreed or tendered for. R. S. O. 1887, c. 33, s. 47.

Notice when
the owners do
not reside on
or near the
property.

48. If the owner of the land, real property, stream or water-course, does not reside on or near the property so required, then one month's notice shall be given in the *Ontario Gazette*, and in two newspapers published in or near the District or County in which the property is situate, of the intention of the Commissioner to cause possession to be taken of the land or real property, stream or water-course; and, after ten days from the publication of the last notice, possession may be taken accordingly. R. S. O. 1887, c. 33, s. 48.

Power to alter
the line of any
public road.

49. The Commissioner may discontinue or alter any part of a public road, where it is found to interfere with the proper

line or site of any Public Work; but before discontinuing or altering a public road he shall substitute another convenient road in lieu thereof; and the land theretofore used for any road or part of a road so discontinued, may, without the authority prescribed in section 16, be transferred by the Commissioner to, and shall thereafter become the property of, the owner of the land of which it originally formed part, or may be dealt with as prescribed in section 16. R. S. O. 1887, c. 33 s. 49.

50. Where in the prosecution of a Public Work, it is found necessary to take down or remove a wall, fence or boundary mark of an owner or occupier of land adjoining the Public Work, or to construct back-ditches or drains for carrying off the water accumulating behind the banks of any public canal, the Commissioner shall cause to be replaced the wall, fence or boundary mark as soon as the necessity which caused its being taken down or removed has ceased; and after the same has been so replaced, or when the drain or back-ditch is completed, the owner or occupier of the land shall maintain the wall, fence or boundary mark, drains or back-ditches to the same extent as the owner or occupier might by law be required to do, if the wall or fence had never been so taken down or removed, or the drains or back-ditches had always existed. R. S. O. 1887, c. 33, s. 50.

Fences, etc., removed or ditches made during prosecution of public work to be replaced.

Obligation of land owners.

DRAINAGE OF LANDS.

51. The Commissioner shall have power to employ competent engineers and surveyors to make the necessary examinations, surveys and levels of any swamp or bog land, or land occasionally or permanently flooded with water, and such engineers and surveyors shall be under the direction of the Department, and shall report to the Commissioner on the best means of draining or preventing the flooding of the land, the cost of the same, the quantity and quality of land proposed to be drained or saved from flooding, with an estimate of the improved value of the land. R. S. O. 1887, c. 33, s. 51.

Power to employ engineers, etc., to examine land for drainage, etc.

52. The Commissioner shall submit to the Lieutenant-Governor, in his annual report to be laid before the Legislature, a statement of the results of such examination, surveys and levels, and an estimate of the cost of reclaiming the lands, so as to render them available for cultivation, with his recommendation respecting the same. R. S. O. 1887, c. 33, s. 52.

Report to the Lieutenant-Governor thereon.

53. The Commissioner shall have power to make contracts, in the manner hereinbefore prescribed, for the construction and repair of drains, bridges, roads, dams, dykes, slides and other works necessary or proper to prevent the flooding of, or to carry off the water from any land as aforesaid, and to render the same available for cultivation. R. S. O. 1887, c. 33, s. 53.

Power to make certain contracts.

Power to remove obstructions on report of engineer.

54. Where it has been ascertained, on the report of a competent engineer, that there exists, or is being or has been constructed, across a river, stream or water-course, any mill-dam, embankment or obstruction which impedes, or which, in the opinion of the engineer, will impede the free discharge of water from such swamp, bog or flooded land as aforesaid, the Commissioner shall have power to stop the construction thereof, or to cause the same to be removed, or a slide constructed, as in his opinion may be most advisable; and if it is found that the owner of such mill-dam, embankment or obstruction, or any other person suffers any damage in consequence of the stoppage of its construction, or of its removal, or of the construction of any slide under the provisions of this section, the owner or person suffering such damage shall receive compensation (if on arbitration, as hereinafter provided, he shall be considered reasonably entitled to any) for such damage, to be agreed upon, or appraised and awarded in manner hereinafter provided, due regard being had to the previous rightful or wrongful action of the owner in constructing the mill-dam or embankment; and the compensation shall be paid within six months after the same has been agreed on or awarded. R. S. O. 1887, c. 33, s. 54.

Owners, etc., to receive compensation.

Slides to be under control of Department, etc.

55. Where any slide as aforesaid has been constructed in any mill-dam or embankment, the slide shall be under the control of the Department; and the Commissioner, his engineers and agents, shall have free access to the same at all reasonable times, and for all reasonable purposes, including the regulating the discharge of water over the said slide, and its repair. R. S. O. 1887, c. 33, s. 55.

Power to appoint overseers of drainage works.

56. When the works for the drainage or saving from flooding of any land have been reported complete, the Commissioner shall, if necessary, appoint a competent overseer or overseers to take charge of the same, whose duty it shall be to report, from time to time and as occasion may require, on the condition thereof, and to state what repairs are required to keep such works in good order. R. S. O. 1887, c. 33; s. 56.

Expenditure to be sanctioned by Legislature.

57. Nothing herein contained shall give authority to the Commissioner to cause expenditure not previously sanctioned by the Legislature, except for such repairs and alterations as the immediate necessities of the public service demands. R. S. O. 1887, c. 33, s. 57.

OFFICIAL ARBITRATORS.

Official Arbitrators, how appointed and for what purpose, etc.

58. The Lieutenant-Governor may, from time to time, constitute a Board of Arbitration, and appoint any number of persons, not exceeding three, who shall be Official Arbitrators for Ontario, and who shall arbitrate on, appraise, determine and

award the sum which shall be paid to any person in respect of any claim made by such person under this Act, and with whom the Commissioner cannot agree; and every such Arbitrator shall receive such remuneration as may be from time to time fixed by the Lieutenant-Governor. R. S. O. 1887, c. 33, s. 58.

59. The Arbitrators shall take, before the Commissioner or one of Her Majesty's Justices of the Peace for Ontario, the following oath:— Their oath of office.

“I, A. B, do swear that I will well and truly hear, try and examine into such claims as may be submitted to me for compensation for real or personal property taken, or alleged direct or consequent damage to such property arising from the construction, or connected with the execution, of any Public Work undertaken at the expense of the Province of Ontario, or arising out of or connected with the execution of, or on account of deductions made for the non-execution or non-fulfilment of any contract for the execution of any such Public Work; that I will give a true judgment and just award thereon to the best of my knowledge and ability; and that I will take into due consideration the benefits derived and to be derived by the claimant through the construction of such Public Work, as well as the injury done thereby: So help me God.”

R. S. O. 1887, c. 33, s. 59.

60. The Lieutenant-Governor may appoint proper persons to act as clerks to the Arbitrators, and may fix the amount of remuneration to be allowed to such clerks. Clerks to arbitrators. R. S. O. 1887, c. 33, s. 60.

61. Whenever an Arbitrator has concluded an arbitration by the publication of his award thereon, he shall forthwith cause to be transmitted to the Secretary of the Department the award, together with all depositions, documents, maps, plans, books, accounts, contracts and writings, not being private property, taken by or submitted to such Arbitrator in the course of the arbitration; and the Secretary shall file the same as public records of the Department. Arbitrators to transmit award, etc., to Secretary. R. S. O. 1887, c. 33, s. 61.

WHAT CASES MAY BE REFERRED TO ARBITRATION.

62. If any person has a claim for real or personal property taken, or for alleged direct or consequent damage to such property, arising from the construction or connected with the execution of a Public Work undertaken at the expense of the Province, or a claim arising out of, or connected with, the execution or fulfilment, or on account of deductions made for the non-execution or non-fulfilment, of a contract for the execution of any Public Work made and entered into with the Commissioner, either in the name of Her Majesty, or in any other manner whatsoever, such person may give notice in writing of his claim to the Commissioner, stating the particulars hereof, and how the same has arisen; and thereupon the Commissioner may, at any time within thirty days after the notice, tender what he considers a just satisfaction for the same, with notice that unless the sum so tendered is accepted in ten days How and in what cases claims are to be made.

after the tender, the claim will be submitted to arbitration. R. S. O. 1887, c. 33, s. 62.

Security for costs by claimant.

63. Before a claim under this Act is arbitrated upon, the claimant shall give security to the satisfaction of the Arbitrators, or one of them, for the payment of the costs and expenses incurred by the arbitration, in the event of the claimant being awarded to pay the costs. R. S. O. 1887, c. 33, s. 63.

When arbitration not allowed.

64. No person shall be entitled to an arbitration, where by the terms of the contract it is provided that the determination of any matters of difference arising out of or connected with the same shall be decided by the Commissioner, Architect or Engineer, or other officer of the Department. R. S. O. 1887, c. 33, s. 64.

Limitation of time within which claims must be made.

65. No claim of any kind for compensation in respect of a contract made, or for loss or damage occasioned by anything done under this Act, by or under the authority of the Department or the Commissioner, shall be submitted to or entertained by an Arbitrator, unless the claim and the particulars thereof have been filed with the Secretary of the Department within six months next after the loss or injury complained of, or after the date of the final estimate made under such contract. R. S. O. 1887, c. 33, s. 65.

POWERS OF ARBITRATORS AND PROCEEDINGS BY OR BEFORE THEM.

Power to summon witnesses, etc.

66. The Arbitrators may, by summons or order in writing, signed by any one of them, to be served upon, or left at the last usual place of residence of the person to whom it is addressed, command the attendance, from any part of the Province, of any witness, or the production of any documents required by any of the parties, and may swear the witness to testify truly respecting the matters on which he is to be interrogated; and the disobedience to the summons or order shall subject the person disobeying to a penalty of not less than \$5, nor more than \$25, to be recovered before a Justice of the Peace, and levied under the warrant of the Justice, by distress and sale of the goods and chattels of the offender, unless such person establishes reasonable cause for his disobedience. R. S. O. 1887, c. 33, s. 66.

What evidence privileged.

67. No person shall be compelled to give evidence, or to produce any document, which he would not be compelled to give or produce at a trial in the High Court, or to attend as a witness more than three consecutive days; and every witness shall be allowed, in addition to his reasonable travelling expenses, a sum not exceeding \$1 per day, at the discretion of the Arbitrators, the remuneration to be paid by the party requiring his attendance. R. S. O. 1877, c. 33, s. 67.

Fees of witnesses.

68. The Arbitrators shall consider the advantage as well as the disadvantage of any Public Work, as respects the real or personal property of the person through which the same passes, or to which it is contiguous, or as regards a claim for compensation for damage caused thereby; and the Arbitrators shall, in estimating and awarding the value of any property, real or personal, taken for a Public Work, or the amount of damages to be paid to any person, take into consideration the advantages accrued, or likely to accrue, to the person or his estate, as well as the damage occasioned by reason of the work. R. S. O. 1887, c. 33, s. 68.

Arbitrators to consider advantages of work to claimant.

69. The Arbitrators, in estimating and awarding the amount to be paid to a claimant for property, real or personal, taken by the Commissioner under this Act, or for injury in respect thereof, shall assess the value thereof as if made at the time when the property was so taken or injured, and not as at the time of making their award. R. S. O. 1887, c. 33, s. 69.

How damages estimated, etc.

70. In awarding upon a claim arising out of a contract in writing, the Arbitrators shall decide in accordance with the stipulations in the contract, and shall not award compensation to a claimant on the ground that he expended a larger sum of money in performance of his contract than the amount stipulated therein; nor shall they award interest on any sum of money which they consider to be due to the claimant, in the absence of a contract in writing stipulating payment of interest; and any clause in such contract in which a drawback or penalty is stipulated for the non-performance of any condition thereof, or neglect to complete any Public Work, or to fulfil any covenant or promise in such contract, shall not be construed as comminatory, but as importing an assessment, by mutual consent of the damages caused by such non-performance or neglect. R. S. O. 1887, c. 33, s. 70.

How award to be made where contract in writing,

and penalties in such contracts construed.

71. In the investigation of a claim, the Arbitrators shall cause all legal evidence offered on either side to be taken down and recorded in writing, and shall make and keep a list of all plans, receipts, vouchers, documents and other papers which may be produced before them during the investigation; but they may, with the consent in writing of the Commissioner and of the opposite party, take the testimony of the witnesses adduced on either side, orally, and in such case need not reduce it to writing. R. S. O. 1887, c. 33, s. 71.

Mode of taking evidence.

Exception.

72. If the sum awarded in any case is greater than the sum tendered, the Commissioner shall pay the costs of the arbitration; but if less, the costs shall be paid by the person who refused the tender; and the costs shall in other cases, where the award is in favour of the claimant, be paid by the Commissioner, in addition to the sum awarded; and where the award is in favour of the Commissioner, shall be paid by the claimant, and shall in all cases be taxed by the proper officer of the High Court. R. S. O. 1887, c. 33 s. 72.

Costs of arbitration.

CHAPTER 38.

An Act respecting Riots near Public Works.

INTERPRETATION, s. 1.

LIEUT.-GOVERNOR MAY DECLARE ACT
TO BE IN FORCE, s. 2.DELIVERY UP OF WEAPONS WHERE
THE ACT IS IN FORCE, ss. 3-6.

PENALTY FOR NON-DELIVERY, s. 7.

SEARCH FOR AND SEIZURE OF WEAP-
ONS, s. 8.MONTHLY RETURNS OF WEAPONS DE-
LIVERED UP, s. 9.SALE OF FORFEITED WEAPONS, s.
10.

RECOVERY OF PENALTIES, s. 11.

MOUNTED POLICE FORCE MAY BE
RAISED TO CARRY ACT INTO
EFFECT, ss. 12-14.EXPENSES OF CARRYING ACT INTO
EXECUTION, HOW DEFRAIDED, ss.
15, 16.

Preamble.

WHEREAS it is desirable to make special provisions for the preservation of the peace and for the protection of the lives, persons and property of Her Majesty's subjects, in the neighbourhood of Public Works on which large bodies of labourers are congregated and employed.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpretation
of term
"weapon."

1. In this Act, the term "weapon" shall include every species of weapon, arms or ammunition enumerated in section 3 of this Act. R. S. O. 1887, c. 34, s. 1.

Lieut-Governor in Council may by proclamation declare this Act to be in force in any locality in which Public Works are being carried on.

2.—(1) The Lieutenant-Governor in Council may, as often as occasion requires, declare by proclamation the several places in this Province within the limits whereof a canal or other Public Dominion or Provincial work, or a canal, railway or other work undertaken or carried on by an incorporated Company is in process of construction, or such places as are in the vicinity of such canal, railway or other work as aforesaid, within which he deems it necessary that this Act should be in force—and this Act shall, upon and after the day to be named in the proclamation, take effect within the places designated in the proclamation.

And may, in like manner, declare this Act to be no longer in force.

(2) The Lieutenant-Governor in Council may, in like manner, from time to time, declare this Act to be no longer in force in such place; but this shall not prevent the Lieutenant-Governor in Council from again declaring the same to be in force in such place.

(3) No such proclamation shall have effect within the limits of a city. R. S. O. 1887, c. 34, s. 2.

Proclamation not to apply to cities.

3.—(1) Upon and after the day to be fixed in the proclamation, no person employed in or upon a canal, railway or other work as aforesaid, within the limits specified in the proclamation, shall keep or have in his possession or under his care or control, within such limits, any gun, blunderbuss, pistol or other fire-arm, or any stock, lock, barrel or any other part of a gun, blunderbuss, pistol or other fire-arm, or any bullets, sword, sword-blade, bayonet, pike, pike-head, spear, spear-head, dirk, dagger or other instrument intended for cutting or stabbing, or other arms, ammunition or weapon of war, under a penalty of not less than \$2 nor more than \$4 for every such weapon found in his possession, unless such person is a Justice of the Peace or a public officer, or a soldier, sailor or volunteer in Her Majesty's service, on duty, or a constable or other peace officer, or has a certificate of exemption from the operation of this section as hereinafter provided for, or has at the time reasonable cause to fear an assault or other injury to his person, family or property. R. S. O. 1887, c. 34, s. 3; 60 V. c. 15, Sched. A (8) part.

Possession of weapons prohibited.

Except in certain cases.

(2) If sufficient cause be shown upon oath to the satisfaction of any Justice of the Peace, he may grant to any applicant therefor not under the age of sixteen years, and as to whose discretion and good character he is satisfied by evidence upon oath, a certificate of exemption from the operation of this section for such period not exceeding twelve months, as he deems fit.

Justice may grant certificate of exemption.

(3) Such certificate upon the trial of any offence shall be *prima facie* evidence of its contents and of the signature and official character of the person by whom it purports to be granted. 60 V. c. 15, Sched. A (8) part.

Certificate to be evidence.

4. Within the time appointed as aforesaid in the proclamation, every person employed in or upon the canal, railway or other work to which the same relates, who is not exempted under the next preceding section, shall bring and deliver up to some Justice of the Peace or Commissioner to be appointed by the Lieutenant-Governor for the purposes of this Act every such weapon in his possession, and shall obtain from the Justice of the Peace or Commissioner a receipt for the same. R. S. O. 1887, c. 34, s. 4.

Weapons to be delivered to a Justice.

5. When this Act ceases to be in force within the place where any weapon has been delivered up and detained in pursuance thereof, or when the owner or person lawfully entitled to such weapon satisfies the Justice or Commissioner that he is about to remove immediately from the limits within which this Act is at the time in force, the Justice or Commissioner

Weapons to be returned.

may deliver up to the owner or person authorized to receive the same, such weapon, on production of the receipt so given for it. R. S. O. 1887, c. 34, s. 5.

Weapons unlawfully kept may be seized and shall be forfeited.

6. Every such weapon found in the possession of a person employed as aforesaid after the day named in the proclamation as that on or before which such weapon ought to be delivered up, and within the limits or locality set forth in the proclamation bringing this Act into force, shall be liable to be seized; and being seized by any Justice, Commissioner, Constable or other peace officer, shall be forfeited to the use of Her Majesty. R. S. O. 1887, c. 34, s. 6.

Penalty for keeping arms contrary to this Act in the limits in which Act is in force.

7. If a person, for the purpose of defeating this Act, receives or conceals, or aids in receiving or concealing, or procures to be received or concealed, within the limits within which this Act is at the time in force, any weapon as aforesaid belonging to or in the custody of a person employed on such canal, railway or other work, he shall forfeit a sum of not less than \$40 nor more than \$100; one half to belong to the informer and the other half to her Majesty. R. S. O. 1887, c. 34, s. 7.

Search for and seizure of arms unlawfully kept.

8—(1) A Justice of the Peace or Commissioner appointed under this Act, having authority within the place where this Act is at the time in force, upon the oath of a credible witness that he believes that any weapon as aforesaid is in the possession of any person, contrary to the provisions of this Act, or in any house or place, may issue his warrant to a constable or peace officer, to search for and seize the same, and he or any person in his aid may search for and seize the same in the possession of any person, or in such house or place.

Forcible entry in case admission refused to the officer.

(2) In case admission to such house or place cannot be obtained after demand, the constable or peace officer, and person in his aid, may enter the same by force, by day or by night, and seize such weapon; and unless the party within whose possession or in whose house or place the same has been found, within four days next after the seizure, proves to the satisfaction of the Justice or Commissioner that the weapon so seized was not in his possession or in his house or place contrary to the meaning of this Act, such weapon shall be forfeited to the use of Her Majesty. R. S. O. 1887, c. 34, s. 8.

Weapons, etc., seized to be forfeited unless proved to have been lawfully kept.

Justices, etc., to make monthly returns.

9. Every Justice or Commissioner shall make a monthly return to the Secretary of the Province of all weapons delivered to him, and by him detained under this Act. R. S. O. 1887, c. 34, s. 9.

Weapons forfeited to be sold.

10. Weapons declared forfeited under this Act shall be sold under the direction of the Justice or Commissioner by whom or by whose authority the same were seized, and the

proceeds of the sale, after deducting necessary expenses, shall be received by the Justice or Commissioner and paid over by him to the Provincial Treasurer for the use of the Province. Proceeds how applied.

R. S. O. 1887, c. 34, s. 10.

11. All penalties imposed by this Act may be recovered before any two Justices of the Peace acting for the District or County within which the fact in respect of which such penalty is sought to be recovered, happened or was committed;—and such Justices shall, on complaint on oath of such offence, issue their warrant for bringing the offender before them, and shall, on the offender being brought before them, hear the complaint and adjudge upon the same; and if the offender is convicted on the oath of one witness other than the informer, or by his own confession, the Justices shall impose such penalty. Before whom penalties imposed by this Act may be recovered, and on what evidence.

R. S. O. 1887, c. 34, s. 11.

[As to protection of persons acting under this Act see "The Act to Protect Justices of the Peace and Others from Vexatious Actions," Cap. 88.]

MOUNTED POLICE FORCE.

12. For the better carrying this Act into effect, the Lieutenant-Governor in Council may cause a body of men not exceeding one hundred, inclusive of officers, and to be called "The Mounted Police Force," to be raised, mounted, armed and equipped, and to be placed under the command of such officers as the Lieutenant-Governor in Council deems necessary, and may cause such Police Force, or any portion thereof, to be employed in any place in which this Act is then in force, under such Orders and Regulations as the Lieutenant-Governor in Council shall from time to time issue. A Mounted Police Force may be raised and employed for better carrying this Act into effect.

13. The Lieutenant-Governor may appoint the chief officers and such of the subordinate officers of the Mounted Police Force, and such other persons as he deems necessary, to be respectively Justices of the Peace for the purposes of this Act within any of the places in which this Act is in force; and such officers and persons respectively may act as Justices of the Peace, although they may not have the qualification in property required of others or may not reside in the County or District. Officers of Police Force and others may be appointed Justices of the Peace for certain localities without a property qualification.

14. The men in the Mounted Police Force are hereby constituted respectively constables and peace officers for the purposes of this Act, for the District or County in which they are employed for the time being. Mounted Policemen to be Constables and Peace Officers.

R. S. O. 1887, c. 34, s. 14.

EXPENSES.

Expenses of carrying this Act into effect how defrayed, in the case of Provincial Works.

15. The expenses of carrying this Act into effect upon or near Provincial Public Works shall be paid through the Commissioner of Public Works out of the moneys appropriated for the work on which expenses are incurred, and shall be charged as part of the cost of the work ; and the sum to be so charged against each work shall be proportionate to the number of policemen employed on the work and the time during which they are so employed ; but the sum so expended in any one year shall not exceed \$40,000. R. S. O. 1887, c. 34, s. 15.

How the expenses defrayed in case of works carried on by companies.

16. The expenses attending the employment of such police force in any place in or in the vicinity whereof a railway, canal or work, undertaken and carried on by an incorporated Company as aforesaid, is in progress of construction, shall be, in the first instance, paid by the Lieutenant-Governor out of the Consolidated Revenue Fund, and shall, on demand, be repaid to the Provincial Treasurer by the incorporated Company, or, if not so repaid, may be recovered from the Company as a debt due to the Crown ; and when recovered, shall form part of the Consolidated Revenue Fund. R. S. O. 1887, c. 34, s. 16.

CHAPTER 39.

An Act respecting the Sale of Intoxicating Liquors near Public Works.

SALE OF INTOXICATING LIQUORS PROHIBITED, s. 1.	PROCEEDINGS AGAINST KEEPERS OF LIQUOR, ss. 7, 8.
PENALTIES, s. 2.	PAYMENT FOR LIQUORS ILLEGALLY SOLD MAY BE RECOVERED BACK, s. 9.
AGENTS PUNISHABLE AS PRINCIPALS, s. 3.	COMPELLING ATTENDANCE OF WITNESSES, s. 10.
PERSONS WHO MAY HEAR CASES UNDER THIS ACT, s. 4.	PROVISION FOR PROTECTION OF JUSTICES, s. 11.
APPEALS, s. 5.	COSTS, ss. 12, 13.
SEARCH FOR LIQUORS AND SEIZURE AUTHORIZED, s. 6.	PROCEEDINGS NOT TO BE VOID FOR DEFECT OF FORM, s. 14.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1.—(1) No person shall barter, sell, exchange or dispose of, directly or indirectly, to any other person, alcoholic, spirituous, vinous, fermented or other intoxicating liquor, or mixed liquor a part of which is spirituous, or vinous, fermented or otherwise intoxicating; (and every such liquor or mixed liquor shall be included in the expression “intoxicating liquor,” when used in this Act); nor shall expose, keep or have in his possession, for sale, barter or exchange, intoxicating liquor, at any place not included within the limits of a city, town or incorporated village, and being within three miles of the line of any railway, canal, or other Public Work in process of construction, whether the work be constructed by the Government of Canada or of this Province, or by an incorporated Company, or by private enterprise; nor shall any person obtain or receive a license to sell intoxicating liquor at such place as aforesaid, and such license if granted shall be null. R. S. O. 1887, c. 35, s. 1, (1); 60 V. c. 15, Sched. A (10).

Intoxicating liquors not to be sold within a certain distance of any public work in process of construction.

No license to be granted in such place.

(2) If any doubt at any time arises as to whether a work then in process of construction does or does not come within the meaning of this section, the Lieutenant-Governor, if he sees fit, may declare by proclamation that such work is within the meaning of this section, and that the prohibition herein contained applies

In case of doubt Lieutenant-Governor may declare any work within the scope of this Act.

to any place within three miles of the line thereof, which line may be described and defined in the proclamation; and the declaration contained in the proclamation shall have the like force as if contained in this Act, and the prohibition shall apply accordingly.

Effect of such declaration.

(3) Nothing in the declaration shall be construed as a declaration that the work or any part thereof was not within the meaning of this section before the issuing of the proclamation, but the question whether it was or was not so shall be decided as if the proclamation had not issued.

Application of section limited.

(4) This section shall not extend to any person selling intoxicating liquors by wholesale, and not retailing the same, if the person be a licensed distiller or brewer, nor shall it prevent the renewal of the license of houses or shops which had been usually licensed before the construction of the Public Work was commenced. R. S. O. 1887, c. 35, s. 1, (2-4).

Penalty for contravention of this Act.

2.—(1) A person who, in contravention of this Act, by himself, his clerk, servant or agent, exposes or keeps for sale, or barter, sells, disposes of, gives or exchanges for any other matter or thing, to another person, intoxicating liquor, shall be liable to a fine of \$20 on the first conviction, \$40 on the second, and on the third and every subsequent conviction to such last mentioned fine and imprisonment for a period not more than six months. R. S. O. 1887, c. 35, s. 2 (1).

How applied.

(2) The fine shall be paid over to the treasurer or clerk of the municipality in which the offence is proved to have been committed, for the use of the municipality, and shall be applied to such public purposes as the council thereof may direct; where there is no municipal organization, the fine shall be paid over to the Treasurer of the Province, or where there is a Stipendiary Magistrate, shall be paid to such Magistrate and by him paid over to the Treasurer of the Province. R. S. O. 1887, c. 35, s. 2 (2); 60 V. c. 15, Sched. A (11).

Imprisonment in default of payment.

(3) In default of payment of any fine and costs imposed under this Act, with the costs of prosecution, at the time of conviction, the offender shall be imprisoned until the same is paid, under warrant of the Justice, Reeve, Police Magistrate or Judge before whom the conviction is had; but no person shall be imprisoned for any separate offence under this Act for fine or costs, or for both fine and costs, for a period exceeding six months. R. S. O. 1887, c. 35, s. 2 (3).

Agents, etc., punishable as principals.

3. If any clerk, servant or agent, or other person in the employment or on the premises of another, sells, disposes of or exchanges for any other matter or thing, or assists in selling, disposing of, or exchanging for any other matter or thing, intoxicating liquor, in contravention of this Act, for the person in whose service or on whose premises he is, he shall be held equally guilty with such person, and shall be liable to the like penalty. R. S. O. 1887, c. 35, s. 3.

4. Any Justice of the Peace, Reeve, Police Magistrate or Judge of a Division Court shall hear and determine in a summary manner any case arising within his jurisdiction under this Act; and if the Justice, Reeve, Police Magistrate, or Judge before whom the examination or trial is had so orders, as he may if he thinks there was probable cause for the prosecution, the defendant shall not recover costs though the prosecution fails. Who may hear and decide cases under this Act. R. S. O. 1887, c. 35, s. 4. Costs.

5.—(1) No appeal shall be allowed to any person complained of or convicted under this Act, unless, within three days after conviction or order made or judgment rendered, he enters into a bond to the Municipality in which the offence is alleged to have been committed, in the sum of \$100, jointly and severally with two good and sufficient sureties, to prosecute his appeal, and to pay all costs, fines and penalties to be awarded against him upon the final determination of the case. On what conditions only an appeal shall be allowed.

(2) No bond shall be taken except by the Justice of the Peace, Reeve, Police Magistrate or Judge of a Division Court before whom the complaint was made or the offender tried, and the security shall be to his satisfaction; and if the appeal is not successful, the bond shall be forfeited, and where there is municipal organization the amount thereof shall become a debt due to the Municipality within which the offence was committed, recoverable by action by and in the name of the Municipality, and it shall be the duty of the Clerk or Treasurer of the Municipality to prosecute the same, and the money shall be applied in the same manner as the fines hereinbefore mentioned. By whom the bond in appeal shall be taken, etc R. S. O. 1887, c. 35, s. 5.

6. If three persons being voters or entitled to vote at any municipal election of the Municipality within which the complaint is made, make oath or affirmation before a Justice, Reeve, Police Magistrate, or Judge of a Division Court, that they have reason to believe and do believe that intoxicating liquor intended for sale or barter in contravention of this Act, is kept or deposited in a steamboat or other vessel, or in a carriage or vehicle, or in a store, shop, warehouse, or other building or place in the Municipality, or on any river, lake or water adjoining the same, at any place within which intoxicating liquor is by this Act prohibited to be sold or bartered or kept for sale or barter, the Justice, Reeve, Police Magistrate, or Judge shall issue his warrant of search to any sheriff, police officer, bailiff or constable, who shall forthwith proceed to search the premises, steamboat, vessel or place described in the warrant, and if intoxicating liquor is found therein, he shall seize the same, and the barrels, casks or other packages in which it is contained, and convey them to some proper place of security, and there keep them until final action is had thereon; but no dwelling house in which, or in part of which a shop or bar is not kept, shall be Search for liquors allowed in certain cases. Seizure. Dwelling house not to be searched except in certain cases.

searched, unless one at least of the complainants testifies on oath to some act of sale of intoxicating liquor therein or therefrom, in contravention of this Act, within one month from the time of making the complaint. R. S. O. 1887, c. 35, s. 6.

Owners of liquor to be summoned.

Destruction of liquors illegally kept.

Fine.

7. The owner or keeper of the liquor seized as aforesaid, if he is known to the officer seizing the same, shall be summoned forthwith before the Justice or person by whose warrant the liquor was seized, and if he fails to appear, or if it is proved to the satisfaction of the Justice or person who issued the warrant, that the liquor was kept or intended for sale or barter, in contravention of this Act, it shall be declared forfeited, with any package in which it is contained, and shall be destroyed by authority of the written order to that effect of the Justice, Reeve, Police Magistrate or Judge, and in his presence, or in the presence of some person appointed by him to witness the destruction thereof, who shall join with the officer by whom the liquor has been destroyed, in attesting that fact upon the back of the order by authority of which it was done; and the owner or keeper of the liquor shall pay a fine of \$40 and costs, or, in default thereof, be committed to prison for three months. R. S. O. 1887, c. 35, s. 7.

Proceedings if the owner is unknown, etc.

8.—(1) If the owner, keeper or possessor of liquor seized under the provisions of this Act is unknown to the officer seizing the same, it shall not be condemned and destroyed until the fact of the seizure has been advertised, with the number and description of the package as nearly as may be, for two weeks, by posting up a written or printed notice and such description thereof in at least three public places.

Proceedings if found that liquor not intended for sale.

Forfeiture and destruction of liquor where found that intended for sale.

(2) If it is proved within such two weeks to the satisfaction of the Justice, Reeve, Police Magistrate or Judge by whose authority the liquor was seized, that it was not intended for sale or barter, in contravention of this Act, it shall not be destroyed, but shall be delivered to the owner, who shall give his receipt therefor upon the back of the warrant, which shall be returned to the Justice or person who issued the same; but if, after the advertisement as aforesaid, it appears to the Justice, Reeve, Police Magistrate or Judge, that the liquor was intended for sale or barter, in contravention of this Act, then the liquor, with the package in which it is contained, shall be forfeited, condemned and destroyed. R. S. O. 1887, c. 35, s. 8.

Payments for liquor illegally sold, etc., in contravention of this Act, to be void.

9. Payment or compensation for liquor sold or bartered in contravention of this Act, whether in money or securities for money, labour or property of any kind, shall be held to have been received without consideration, and against law, equity and good conscience, and the amount or value thereof may be recovered from the receiver by the party making, paying or furnishing the same; and all sales, transfers, conveyances, liens

and securities of every kind which either in whole or in part have been given for or on account of intoxicating liquor sold or bartered in contravention of this Act, shall be null against all persons, and no right shall be acquired thereby, and no action of any kind shall be maintained, either in whole or in part, for or on account of intoxicating liquor sold or bartered in contravention of this Act. R. S. O. 1887, c. 35, s. 9.

10. A Justice of the Peace, Reeve, Police Magistrate or Judge, authorized to hear and determine offences against this Act, may summon any person represented to him as a material witness in relation to any offence against this Act; and if such person refuses or neglects to attend, pursuant to the summons, the Justice or person authorized to try the offence may issue his warrant for the arrest of the person so summoned, and he shall be brought before the Justice or person issuing the warrant, and if he refuses to be sworn, or to affirm, or to answer any question touching the matter under investigation, he may be committed to the common gaol, there to remain until he consents to be sworn or to affirm and answer. R. S. O. 1887, c. 35, s. 10.

Witnesses may be compelled to appear.

11. All the provisions of any law for the protection of Justices of the Peace, when acting as such, or to facilitate proceedings by or before them, in matters relating to summary convictions and orders, shall, in so far as they are not inconsistent with this Act, apply to every functionary empowered to try offenders against this Act, and such functionary shall be deemed a Justice of the Peace within the meaning of such law, whether he be or be not a Justice of the Peace for other purposes. R. S. O. 1887, c. 35, s. 11.

Provisions of Acts for protection of Justices extended to functionaries under this Act.

12. Where judgment is rendered for costs, there shall be included therein fees for such prospective services as are necessary to enforce the judgment. R. S. O. 1887, c. 35, s. 12.

Costs of enforcing judgment to be included.

13. Upon judgment or affirmance of an appeal, and for any other proceeding under this Act had before a Justice, Reeve or other functionary, the costs shall be the same as are now by law allowed for proceedings of a like nature;—and in actions and proceedings in any higher Court, the costs shall be the same as are usually allowed in such Court. R. S. O. 1887, c. 35, s. 13.

Costs under this Act.

14. No action or other proceeding, warrant, judgment, order, or other instrument or writing, authorized by this Act, or necessary to carry out its provisions, shall be held void, or be allowed to fail for defect of form. R. S. O. 1887, c. 35, s. 14.

Actions and proceedings not to be void for want of form.

4. AIDING DRAINAGE WORKS.

CHAPTER 40.

An Act respecting Municipal Debentures issued for
Drainage Works.

SHORT TITLE, s. 1,
TOWNSHIP UNDERTAKING DRAINAGE
WORKS MAY APPLY FOR SALE OF
DEBENTURES, s. 2.
COMMISSIONER OF PUBLIC WORKS TO
REPORT AS TO INVESTMENT, ss.
3, 4.

INVESTMENT, ss. 5, 6.
DEBENTURES NOT TO BE QUESTIONED
AFTER INVESTMENT MADE, s. 7.
REMITTANCE OF AMOUNT PAYABLE ON
DEBENTURES TO THE PROVINCIAL
TREASURER, s. 8.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows :—

Short Title.

1. This Act may be cited as "*The Municipal Drainage Aid Act.*" R. S. O. 1887, c. 37, s. 1.

Townships
and counties
undertaking
drainage
works may
deposit with
the Provincial
Treasurer
copies of
plans, etc.
Rev. Stat.
c. 226.

2.—(1) Every Township Municipality which has undertaken or proposes to undertake works under the provisions of *The Municipal Drainage Act*, or under the provisions of any Municipal Act heretofore in force, and every County which has issued debentures under a by-law passed in pursuance of section 598 of *The Consolidated Municipal Act* 1892 or under *The Act respecting certain County Drainage Works* passed in the 58th year of Her Majesty's reign and chaptered 55, may, after the expiration of the time limited for serving notice of intention to make application to quash the by-law, deposit with the Provincial Treasurer (if he deems it necessary) authenticated copies of the plans, specifications and estimates of the works, and a copy of the by-law; and may apply for the sale of the debentures authorized thereby.

Application for
sale of debentures.

(2) The application shall be in writing, sealed with the seal of the Municipality, and signed by the Warden, Reeve or other head officer thereof, and shall be accompanied by two affidavits, one

to be made by the said Warden, Reeve or other head officer, in form or to the effect set forth in Schedule A to this Act, and the other to be made by the Clerk of the Municipality, in form or to the effect set forth in Schedule B to this Act; the affidavits may be sworn before any Justice of the Peace. R. S. O. 1887, c. 37, s. 2; 53 V. c. 11, ss. 1, 2; 58 V. c. 55, s. 2.

3. The Provincial Treasurer shall investigate and report to the Lieutenant-Governor in Council as to the propriety of the investments proposed in the applications, in the order of time in which they are deposited; and the reports shall be disposed of by the Lieutenant-Governor in Council in the order of time in which the same are made. R. S. O. 1887, c. 37, s. 3; 53 V. c. 11, s. 1.

Treasurer to report as to investment.

4. The Provincial Treasurer shall not certify to the propriety of the investment in any case in which the aggregate amount of the rates necessary for the payment of the current annual expenses of the Municipality and the interest and principal of the debts contracted by the Municipality exceed the aggregate value of three cents in the dollar on the whole value of the ratable property within its jurisdiction, or in any case in which the debentures to be issued under the by-law exceed \$30,000; and the amount invested under this Act in the purchase of debentures of any Municipality shall not at any one time exceed \$20,000. R. S. O. 1887, c. 37, s. 4; 53 V. c. 11, s. 1.

When the Treasurer not to certify to propriety of investment.

5. The Lieutenant-Governor in Council may from time to time in his discretion invest any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any one time the sum of \$350,000, in the purchase of debentures issued under by-laws so deposited as aforesaid, in respect of which the Treasurer certifies to the propriety of the investment. R. S. O. 1887, c. 37, s. 5.

Purchase of debentures.

6. On any such investment the Lieutenant-Governor may, in his discretion, advance the whole par value of the debentures, or may retain such percentage thereof as he may see fit until the Commissioner of Public Works has reported that the works have been inspected and are completed; and the expenses in connection with the investigation and inspection made under this Act shall be deducted from the amount (if any) retained. R. S. O. 1887, c. 37, s. 6.

Lieutenant-Governor may advance whole or part.

7. After such investment has been made, the debentures shall not be questioned, and shall be deemed to be valid to all intents and purposes. R. S. O. 1887, c. 37, s. 7.

When debentures unquestionable.

8.—(1) The amount payable in any year under any such by-law or debentures for principal and interest shall be remitted by the Treasurer of the Municipality to the Treasurer of the Province,

Amount payable under by-law to be remitted to

Provincial
Treasurer.

Consequences
of neglect.

within the space of one month after the same has become exigible, together with interest at the rate of seven per centum per annum, during the time of default in payment; and in case of the continuance of such default, the Council of the Municipality shall in the next ensuing year assess and levy on the whole ratable property within its jurisdiction, in the same manner in which taxes are levied for the general purposes of the Municipality, a sufficient sum over and above the other valid debts of the Corporation falling due within the year, to enable the Treasurer of the Municipality to pay over to the Treasurer of the Province the amount in arrear, together with interest thereon at the rate of seven per centum per annum, during the time of default in payment, whether the same has been previously recovered from the parties or lands chargeable therewith under the by-law or not; and the amount so in arrear and interest shall be the first charge upon all the funds of the Municipality other than sinking funds, for whatever purpose, or under whatever by-law they may have been raised.

Duty and
liability of
municipal
Treasurer
after default.

(2) No Treasurer or other officer of the Municipality shall after such default, pay any sum whatsoever, except for the ordinary current disbursements, and salaries of clerks and other employees of the Municipality, out of funds of the Municipality in his hands, until the amount so in arrear and interest have been paid to the Treasurer of the Province.

Liability of
Treasurers,
Reeves and
Councillors.

(3) If such Treasurer or municipal officer pays any sum out of the funds of his Municipality, except as aforesaid, contrary to the provisions hereinbefore made, in addition to any criminal liability which he may thereby incur, he shall be personally liable to the Treasurer of the Province for every sum so paid, as for money received by him for the Crown; and any Reeve or Councillor wilfully or negligently omitting to see the foregoing provisions carried into effect shall also be personally and individually liable to the Treasurer of the Province for the full amount so in arrear and interest, to be recovered with costs by the Treasurer of the Province, in an action as for money had and received on Her Majesty's behalf: but no assessment, levy or payment made under this section shall in anywise exonerate the persons or lands chargeable under the by-law from liability to the Municipality. R. S. O. 1887, c. 37, s. 8.

SCHEDULE A.

(Section 2.)

AFFIDAVIT OF WARDEN, REEVE OR OTHER HEAD OFFICER.

County of _____ To Wit, } I,
 } of the _____ of _____
 } in the County of _____
and Province of Ontario, *Reeve* of the *Township* of _____
make oath and say :

1. That I have not been served with any notice of intention to make application to quash a certain by-law, being No. passed on the day of in the year of our Lord by the Municipal Council of the said *Township* of in regard to the drainage of a certain portion of the said *Township*, nor have I been served with any notice of intention to make application to quash any part of said by-law, nor with any notice to that or the like effect.

Sworn, etc.

R. S. O. 1887, c. 37, Sched. A.

SCHEDULE B.

(Section 2.)

AFFIDAVIT OF THE CLERK OF THE MUNICIPALITY.

County of _____ } I,
To Wit. } of the _____ of _____
in the county of _____ and _____
Province of Ontario, Clerk of the *Township* _____
make oath and say:

1. On the _____ day of _____ in the year _____ of our Lord _____ the Municipal Council of the said *Township* of _____ passed a by-law in regard to the drainage of a certain portion of the said *Township*, a true copy of which is now shewn to me marked "A."

2. Before the said day of the said by-law, together with a notice that any one intending to apply to have such by-law or any part thereof quashed, must, within ten days after the passing thereof, serve a notice in writing upon the Reeve or other head officer, and upon the Clerk of the Municipality, of his intention to make application for that purpose to the High Court of Justice at Toronto, within two months from the final passing of the by-law, and together with a notice of the time of holding the Court of Revision of the said Township, was published on (insert dates of publication) in the (insert name of newspaper), a newspaper published at in the Township of

(state facts with reference to publication shewing that the provisions of the Municipal Act have been complied with.)

a copy of which newspaper containing the said by-law and notice is now shewn to me and marked "B."

3. I have not been served with any notice of intention to make application to quash said by-law, nor with any notice of intention to make application to quash any part thereof, nor with any notice to that or the like effect.

4. To the best of my knowledge, information and belief, no person assessed by the said by-law paid the amount of his assessment less the interest, or any part thereof, at any time before the actual issue of the Debentures thereunder, which were issued on the _____ day of _____ in the year of our Lord

5. The amount of the rates assessed as set forth in said by-law have not been altered by the Court of Revision for the said *Township* of nor by the County Judge, nor has the said by-law been repealed or amended by the said Council of the said *Township* of but the said by-law is to all intents and purposes the same, and as valid and subsisting as it was when finally passed on the said day of in the year of our Lord (or otherwise according to the fact).

6. The copies of the specifications and estimates for the said drainage now shewn to me and marked _____ are true and authentic copies of the specifications and estimates made by _____ for the said drainage, as mentioned in the said by-law.

Sworn, etc.

R. S. O. 1887, c. 37, Sched. B.

CHAPTER 41.

An Act respecting Tile, Stone and Timber Drainage Debentures.

SHORT TITLE, s. 1.	PROVISIONS AS TO LOANS, SS. 12-14.
BORROWING POWERS OF COUNCILS, s. 2.	INSPECTOR OF DRAINAGE, SS. 15, 16.
BY-LAWS, s. 3.	SPECIAL RATES, s. 17.
DEBENTURES, SS. 4-6.	OWNER MAY DISCHARGE INDEBTEDNESS, s. 18.
PROVINCIAL TREASURER TO REPORT AS TO INVESTMENT, s. 7.	RETURNS TO GOVERNOR IN COUNCIL, s. 19.
APPLICATION TO BORROW FROM COUNCIL, s. 8.	AMOUNT DUE TO BE REMITTED ANNUALLY TO PROVINCIAL TREASURER, s. 20.
ISSUE OF DEBENTURES, s. 9.	AFFIDAVITS, s. 21.
PURCHASE OF DEBENTURES, s. 10.	
DEBENTURES NOT TO BE QUESTIONED, s. 11.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Tile, Stone and Timber Drainage Act.*" R. S. O. 1887, c. 38, s. 1. Short title.

2.—(1) The Council of every Town, Village or Township may pass by-laws from time to time, for borrowing for the purposes hereinafter mentioned, in sums of not less than \$2000, nor exceeding \$10,000, such moneys as they may consider expedient, and for issuing therefor the debentures of the Municipality in sums of \$100 each, payable within twenty years from the 1st day of August in the year in which the money is borrowed from the Municipality as is hereinafter provided, and bearing interest at the rate of five per centum per annum, and it shall not be necessary to submit the by-law to a vote of the electors of the Municipality before the passing thereof. Borrowing powers of Councils.

(2) The entire amount of the indebtedness of the Municipality in respect of moneys so borrowed and remaining unpaid, including the amount provided for in any by-law being passed, shall not at such time exceed the sum of \$10,000; nor shall a by-law hereunder be valid unless the same is passed at a meeting of the Council specially called for the purpose of considering the same, and held not less than four weeks after a notice of the day appointed for the meeting has been published in such newspapers as the Council by resolution may direct. Proviso. R. S. O. 1887, c. 38, s. 2.

Form of by-law.
Rev. Stat. c. 223.

3. The by-law may be in the Form 1 in the Schedule to this Act, and shall be promulgated as provided by *The Municipal Act*. R. S. O. 1887, c. 38, s. 3.

Issue and sale of debentures

4. The debentures issued under the by-law may be issued and sold by the Municipality from time to time, for the purpose only of lending the same for tile, stone or timber drainage, as hereinafter provided, as the Municipal Council thereof may require money for the said purpose. R. S. O. 1887, c. 38, s. 4.

Debentures.

5. The debentures shall be made payable to the Treasurer of Ontario, or order (Form 5), and shall have coupons attached, and each of such coupons shall be for the sum of seven dollars and thirty-six cents, being as nearly as may be the sum required to meet the annual interest of the debenture and the annual sinking fund necessary for the repayment of the debentures at the expiration of twenty years. R. S. O. 1887, c. 38, s. 5.

Application for sale of debentures.

6. The Council of a Municipality proposing to borrow money under the provisions of this Act, may, after the expiration of one month from the final passing of the by-law deposit with the Provincial Treasurer, a copy of the by-law, with affidavits of the Head Officer and Clerk of the Municipality in the Forms 2 and 3 to this Act, and may at any time thereafter apply for the sale of the debentures authorized thereby for such sums as hereinafter provided. The application shall be in writing and sealed with the seal of the Municipality and signed by the Head Officer thereof, and shall specify the names of the parties to whom the money is to be loaned. R. S. O. 1887, c. 38, s. 6; 53 V. c. 11, s. 3.

Treasurer to report to Lieutenant-Governor in Council.

7. The Treasurer shall investigate and report to the Lieutenant-Governor in Council as to the propriety of the investments proposed in such applications in the order of time in which they are deposited; and the reports shall be disposed of by the Lieutenant-Governor in Council, in the order of time in which the same are made. R. S. O. 1887, c. 38, s. 7. 53 V. c. 11, s. 3.

Application for loan.

8.—(1) Any person assessed as owner, and being the actual owner of land in the municipality, wishing to borrow money for the purpose of tile, stone or timber drainage may make application to the council of the municipality in the Form 4 to this Act.

Statutory declaration of applicant.

(2) No such application shall be acted upon by the council unless it is accompanied by a statutory declaration made by the applicant stating that he is the actual owner of the lands mentioned in the said application, and that the said lands are free from encumbrances, or if the said lands or any part thereof are mortgaged or otherwise encumbered, stating the amount

of such mortgage or other encumbrance and the name and address of the mortgagee or encumbrancer, and where the said mortgage has been assigned, the name of the assignee or present holder of such mortgage with his address.

(3) In case it appears that there is any encumbrance upon the said lands or any part thereof the said application shall not be disposed of until two weeks after the mortgagee or other encumbrancer has been notified, by registered letter sent to him by the clerk through the post office to his last known address, of such application. 58 V. c. 9, s. 1. Notice to encumbrancer.

9. On such application the Council may issue debentures for such amount within the sum authorized by this Act and by by-law of the Municipality, as they may deem expedient and proper, but not exceeding the sum or sums applied for, and not exceeding seventy-five per centum of the estimated cost of such drainage. R. S. O. 1887, c. 38, s. 9. Issuing debentures.

10. The Lieutenant-Governor in Council may from time to time, in his discretion, invest any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any one time the sum of \$200,000 in the purchase of any debentures issued under by-laws deposited as aforesaid, in respect of which the Commissioner of Agriculture shall have certified to the propriety of investment. R. S. O. 1887, c. 38, s. 10. Purchase of debentures out of Con. Rev. Fund.

11. After such investment has been made, the debentures shall not be questioned and shall be deemed to be valid to all intents and purposes. R. S. O. 1887, c. 38, s. 11. Debentures declared unquestionable.

12. The Council shall lend the money so borrowed only for the purpose of tile, stone or timber drainage for the same term of twenty years, in sums of one or more hundreds of dollars (no fractional part of \$100 to be loaned), and to persons who are assessed as owners as aforesaid; but no part of the money so borrowed shall be loaned to any member of the Council, but a person having so borrowed any sum or sums from any Municipality shall not thereby and by reason thereof be disqualified from being afterwards elected a member of the Council of such Municipality. R. S. O. 1887, c. 38, s. 12. How and to whom loans to be made.

13. The Council shall not loan to any person borrowing money under this Act a sum which shall require the levying of a greater annual rate for all purposes, exclusive of school rates, than three cents in the dollar upon the value of the lot or parcel of land proposed to be drained, in respect of which the money is borrowed, as ascertained by the last revised Assessment Roll of the Municipality, but in no case shall more than the sum of \$1,000 be loaned to one person. R. S. O. 1887, c. 38, s. 13. Non-disqualification of borrowers.

s. 13.

Order in which loans are to be granted.

14. The Council shall consider the applications in the order they are made, and shall loan the money to the persons whose applications shall have been approved of in the same order. R. S. O. 1887, c. 38, s. 14.

Appointment of Inspector.

15. The Council borrowing money under this Act shall employ a competent person as Inspector of Drainage, whose services and expenses shall be charged ratably upon the works carried on under his inspection, and shall be paid by the Council out of the money borrowed. R. S. O. 1887, c. 38, s. 15.

Inspector's report.

16. The Inspector shall, on the completion of any drainage works under his charge, report to the Council the number of rods of drain constructed on each lot or parcel of land, the cost per rod, and such other particulars as may be required by the Council; the report shall be entered in a book to be provided by the Council for that purpose, and the money shall not be advanced by the Council until the report of the due completion of the work has been so made. R. S. O. 1887, c. 38, s. 16.

No advance to borrower till report made.

Special annual rates.

17. The Council shall impose, by by-law (Form 7), and shall levy and collect for the term of twenty years a special annual rate of seven dollars and thirty-six cents on each \$100 loaned over and above all other rates upon the land in respect of which the money is loaned; and the rate shall be collected in the same manner as other special rates imposed under the provisions of *The Municipal Act*. R. S. O. c. 38, s. 17

Rev. Stat. c. 223.

Owner may discharge his indebtedness.

18. The owner of any lot or parcel of land in respect of which money had been borrowed for tile, stone or timber drainage under this Act, may at any time obtain the discharge of his indebtedness under this Act, by paying the Treasurer of the Municipality the amount borrowed, less the annual sinking fund levied and collected, with interest thereon at the rate of five per centum per annum; and upon such payment being made to the said Treasurer, he shall forthwith transmit the same to the Treasurer of Ontario, who shall apply it on account of the payment of the debentures of the Municipality under this Act. R. S. O. 1887, c. 38, s. 18.

Returns to Lieutenant-Governor in Council by Municipal Council.

19. Every Municipal Council borrowing money under this Act shall, on or before the 15th day of January in each year, make a return to the Lieutenant-Governor in Council, for the purpose of being laid before the Legislative Assembly, shewing the amount of money expended in drainage, the number of rods of drain constructed, the names of the persons borrowing and the property upon which the money has been loaned, the names of the persons whose applications have been refused, the reason in each case of such refusal, during the year next preceding the date of the return. R. S. O. 1887, c. 38, s. 19.

20.—(1) The amount payable in any year under such by-law or debentures, for principal and interest, shall be remitted by the Treasurer of the Municipality to the Treasurer of Ontario within one month after the same shall have become payable, together with interest at the rate of seven per centum per annum during the time of default in payment.

Treasurer of Municipality to remit to Treasurer of Ontario.

(2) In case of the continuance of such default, the Council of the Municipality shall, in the next ensuing year (or as the case may require), assess and levy on the whole ratable property within the Municipality in the same manner in which taxes are levied for the general purposes of the Municipality, a sufficient sum over and above the other valid debts of the corporation falling due within the year, to enable the Treasurer to pay over to the Treasurer of Ontario the amount in arrear together with the interest thereon at the rate of seven per centum per annum, during the time of default in payment whether the same has been previously recovered from the parties or lands chargeable therewith or not.

On default, Council to collect as a tax.

(3) The amount so in arrear and interest at the rate of seven per cent. shall, except as hereinafter provided, be the first charge upon all the funds, other than sinking funds, of the Municipality, for whatever purpose or under whatever by-law they may have been raised; and no Treasurer or other officer of the Municipality shall, after default, pay any sum whatsoever, except for the ordinary current disbursements and salaries of clerks and other employees of the Municipality, or debts due to the Government of Ontario having priority by virtue of any statute, out of any fund of the Municipality in his hands, until the sum in arrear and interest shall have been paid to the Treasurer of Ontario.

Arrears made a first charge on funds of municipality

(4) If any Municipal Treasurer or other officer shall pay any sum out of the funds of his Municipality, except as aforesaid, contrary to the provisions hereinbefore named, he shall be liable to the Treasurer of Ontario for every sum so paid as for money received by him for the Crown, and he shall in addition thereto incur a penalty of \$500 to be recovered with full costs by any person who sues for the same in any of Her Majesty's Courts in this Province having jurisdiction, and in default of payment of the amount which the offender is condemned to pay to the Treasurer of Ontario within the period to be fixed by the Court, the offender shall be imprisoned in the common gaol of the county for the period of twelve months unless he sooner pays the amount which he has been condemned to pay and the costs.

Penalty on officers paying out funds when default made.

(5) Any Mayor, Reeve or Councillor wilfully omitting to see that the foregoing provisions are carried into effect, shall also be personally and individually liable to the Treasurer of Ontario for the full amount so in arrear and interest, to be recovered with costs by the said Treasurer of Ontario, in an action as for money had and received on Her Majesty's behalf: Provided

Penalty on Mayor, etc., disregarding this Act.

always that no assessment, levy or payment made under this section shall in any wise exonerate the persons or lands chargeable from liability to the Municipality. R. S. O. 1887, c. 38, s. 20.

Before whom
affidavits may
be sworn.

21. Affidavits under this Act may be sworn before a Justice of the Peace, or Notary Public, or a Commissioner for taking affidavits in the High Court. R. S. O. 1887, c. 38, s. 21.

SCHEDULE.

FORM 1.

(Section 3.)

FORM OF BY-LAW.

A By-law to raise the sum of \$ to aid in the construction of tile, stone or timber drains.

The Municipality of , pursuant to the provisions of *The Tile, Stone and Timber Drainage Act*, enacts as follows :

1. That the Reeve (or Mayor) of the said may from time to time, subject to the provisions of this by-law, borrow on the credit of the corporation of the said Municipality such sums of money not exceeding in the whole \$, as may be decided by the said Council, and may in manner hereinafter provided, issue debentures of the said corporation in sums of \$100 each for the amount so borrowed; the said debentures to have coupons attached as provided in section 5 of the said Act.

2. That when the Council shall be of opinion that the application of any person or persons who may be assessed as owners of land in the said Municipality, to borrow money for the purpose of constructing tile, stone or timber drains should be granted in whole or in part, then the said Council may, by resolution, instruct the said Reeve (or Mayor) to issue debentures as aforesaid, and to borrow such sum of money as does not exceed the amount applied for, and may loan the same to the said applicant on the completion of the said drainage works.

3. A special annual rate shall be imposed, levied and collected over and above all other rates upon the land in respect of which the said money shall be borrowed, sufficient for the payment of the interest and sinking fund, as provided in the said Act.

R. S. O. 1887, c. 38, Form 1, *Sched.*

FORM 2.

(Section 6.)

Affidavit of Reeve or other Head Officer.

County of } I, of the
TO WIT: } of in the County of
and Province of Ontario, (Reeve) of the of make
oath and say :—

I have not been served with any notice of intention to make appli-

cation to quash a certain by-law passed on the _____ day of _____
 A. D. 18 _____ by the Municipal Council
 of the said _____ of _____ No. _____
 intituled (*give the title of by-law*), nor have I been served with any notice
 of intention to make application to quash any part of said by-law, nor with
 any notice to that or the like effect.

Sworn, etc.

R. S. O. 1887, c. 38, Form 2, *Sched.*

FORM 3.

(Section 6.)

AFFIDAVIT OF CLERK OF MUNICIPALITY.

County of _____ } I, _____ of _____ of
 To wit : _____ in the County of _____
 and Province of Ontario, Clerk of the said _____ of
 make oath and say :—

1. On the _____ day of _____ A.D. 18 _____
 the Municipal Council of the said _____ of _____
 passed a by-law in regard to the borrowing of money to be lent for the
 construction of drains, being No. _____ and intituled (*state title*
of by-law), a true copy of which by-law duly certified by me is now shewn
 to me and is marked "A."

2. A notice setting forth the object of the said by-law, and stating that
 any one intending to apply to have such by-law or any part thereof quash-
 ed must within twenty days after the first publication thereof serve a notice
 in writing upon the Reeve or other head officer of the Municipality, and
 upon the Clerk of the Municipality, of his intention to make application
 for that purpose to the High Court of Justice at Toronto, within two
 months from the final passing of the by-law, was published on (*insert*
here the dates of publication), in the (*insert names of newspapers*), being the
 newspapers in which the Council did by resolution direct the publication
 thereof in the Township of _____ copies of which newspapers
 containing the said notice are now shewn to me, marked "B." and "C."

3. I have not been served with any notice of intention to make applica-
 tion to quash the said by-law, nor with any notice of intention to make
 application to quash any part thereof nor with any notice to that or the
 like effect.

Sworn, etc.

R. S. O. 1887, c. 38, Form 3, *Sched.*

FORM 4.

(Section 8.)

APPLICATION FOR LOAN.

To the Municipal Council of

I, A. B. owner of (*if part state what part*), lot No. _____ in _____ Con-
 cession of the Township of _____ (or as the case may be) hereby

apply for a loan of \$ _____ to assist in the construction of _____ rods
of _____ drain. The proposed depth of drain is _____
inches, the proposed size of tile is _____ inch (1).

(1.) *If the proposed drain is to be stone or timber for the words "size of tile" substitute the words "inside size of drain."*
(Signed) _____ A. B.

R. S. O. 1887, c. 38, Form 4, *Sched.*

FORM 5.

(Section 5.)

FORM OF DEBENTURE.

\$100. _____ No.
Drainage Debenture of the _____ of _____
The Corporation of the _____ of _____, in the County of _____
hereby promises to pay to the Treasurer of the Province
of Ontario or order at the Bank of _____ in the City of Toronto,
the sum of \$100 of lawful money of Canada, and interest thereon at five
per cent. in twenty equal annual instalments of \$7.36 each, the first of such
instalments to be paid on the _____ day of _____ A. D., 18 _____,
pursuant to By-law No. _____, intituled "A By-law to raise the sum of
\$ _____, to aid in the construction of Tile, (Stone or Timber) drains."

A. B.,
Reeve.



C. D.,
Treasurer.

COUPON for twentieth Annual In- stalment of _____ Drainage Deben- ture No. 1, issued under By-law No. _____ of the _____ of _____ \$7.36 payable at the Bank of _____ in the City of Toronto on _____ day of _____ A.D. 18 _____		COUPON for nineteenth Annual In- stalment of _____ Drainage Deben- ture No. 1, issued under By-law No. _____ of the _____ of _____ \$7.36 payable at the Bank of _____ in the City of Toronto on _____ day of _____ A.D. 18 _____	
A. B., Reeve.	C. D., Treasurer.	A. B., Reeve.	C. D., Treasurer.

R. S. O., 1887, c. 38, Form 5, *Sched.*

FORM 6.

(Section 2.)

NOTICE OF BY-LAW.

Take notice that a By-law for raising the sum of \$ _____ for Drainage
under the provisions of *The Tile, Stone, and Timber Drainage Act*

will be taken into consideration by the Municipal Council of the of ,
 on the day of , A.D. 18 ., at the hour of o'clock
 in the noon, at which time and place the members of the Council are
 hereby required to attend for the purpose aforesaid.

E. F.,
 Clerk.

R. S. O. 1887, c. 38, Form 6, *Sched.*

FORM 7.

(Section 17.)

BY-LAW IMPOSING A RATE.

*By-law imposing a Special Drainage rate upon Lot in th
 Concession.*

Whereas *H. J.*, the owner of Lot in the Concession of
 this Township [*or as the case may be*], applied under the provisions of the
Act Respecting Tile, Stone and Timber Drainage Debentures, for a loan
 to be made to him for the purpose of draining the said land : And
 whereas the Municipal Council has, upon his said application, loaned the
 said *H. J.*, the sum of \$1000 [*or as the case may be*], to be repaid with
 interest by means of the rate hereinafter imposed :

Be it therefore enacted, by the said Municipal Council of the said ,
 that an annual rate of \$73.60 per annum [*or as the case may require, namely,
 \$7.36 for every \$100 loaned*], is hereby imposed upon the said land for a period
 of twenty years, such rate to be levied and collected at the same time and
 manner as ordinary taxes are levied and collected.

R. S. O. 1887, c. 38, Form 7, *Sched.*

5. AGRICULTURE AND ARTS.

CHAPTER 42.

An Act respecting the Department of Agriculture.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Duties and powers of Minister of Agriculture.
Rev. Stat., c. 14.

1. The Minister of Agriculture shall, subject to section 3 of *The Act respecting the Executive Council*, have the functions, duties and powers, which by statute or otherwise, on the 23rd day of March, 1888, belonged to the Commissioner of Agriculture, and shall have any other functions, duties and powers which, under and subject to the provisions of the said Act, may be from time to time assigned or transferred to him by order of the Lieutenant-Governor in Council. 58 V. c. 10, s. 1.

BUREAU OF INDUSTRIES.

Bureau to be under direction of Minister of Agriculture.

2. There shall be attached to the Department of the Minister of Agriculture a bureau, to be styled "The Bureau of Industries," for collecting, tabulating and publishing industrial information for public purposes, and the said Minister shall be charged with the direction thereof. 58 V. c. 10, s. 3.

Appointment of secretary and other officers.

3. The Lieutenant-Governor may appoint a Secretary of the Bureau and may also appoint such other officers as may be necessary for the proper conduct of the Bureau. 58 V. c. 10, s. 5.

Useful facts relating to agriculture, etc., to be collected and published.

4. It shall be the duty of the Minister to institute inquiries and collect useful facts relating to the agricultural and other industrial interests of the Province, and to adopt measures for disseminating or publishing the same in such manner and form as he finds best adapted to promote improvement within the Province; and (amongst other things) to procure and publish early information relating to the supply of grain, bread-stuffs and live stock in the other provinces of the Dominion, in Great Britain, and in the United States and other foreign

countries in which the Province finds a market for its surplus products, and as to the demand therefor; and the Minister shall, on or before the first day of May in each year, cause to be published and distributed for the use of the members of the Legislature, the general report and the tabular abstract for the preceding year, made by the Secretary to the Minister as provided by section 5 of this Act. 58 V. c. 10, s. 4.

5. It shall be the duty of the Secretary, under the instructions of the Minister, to conduct all correspondence of the Bureau; to send to the proper officers and persons of whom such service is required the Schedules with instructions approved by the Minister, for the collection of facts and information relating to agriculture and other industries of the Province; to receive, abstract and tabulate the information collected and obtained, and to publish the same from time to time during the growing season; to prepare at the close of each year a general report to the Minister, including a tabular abstract of facts relating to land, trade, government, population and other subjects compiled annually from the departmental records of the Province and from other available records; and generally to perform all work within the sphere of the Bureau as he may from time to time be directed by the Minister. 58 V. c. 10, s. 6.

Duties of
secretary.

6. The Minister of Agriculture, with the approval of the Lieutenant-Governor in Council, may make such arrangements as he deems expedient with the government of the Dominion for the collection and transmission of information on the agricultural, manufacturing and other interests of the Province, or for obtaining for the use of the Province such information as may have been collected by the Department of Agriculture. 58 V. c. 10, s. 7.

Arrangements
with Govern-
ment of
Dominion.

7. All collectors and officers employed in collecting data for the Bureau of Industries shall be entitled to receive one copy each of the publications and reports of the said Bureau. 58 V. c. 10, s. 8.

Certain per-
sons entitled to
copy of
reports.

8. The officers of all societies and associations organized under *The Agriculture and Arts Act*, and of all municipal councils, school boards and public institutions, and all public officers of this Province, shall promptly answer all official communications from the said Bureau, shall from time to time collect and tabulate facts according to instructions to be furnished them, shall make diligent efforts to supply correct information on all questions submitted to them, and generally shall act as far as practicable upon the recommendations of the Minister; and any officer of any such society, association, council, school board or public institution making a false return of information, or refusing or wilfully neglecting to answer

Officers of cer-
tain societies
and others
to answer all
official com-
munications.
Rev. Stat.
c. 43.

any question, or to fill up, tabulate and return official schedules according to the instructions furnished as aforesaid and within the prescribed times, or to furnish information relating to the industries of the Province, when required so to do either by the Minister or by the Secretary of the Bureau, shall for every such offence incur a penalty of \$40, which shall be recoverable by any person suing for the same before any court of competent jurisdiction, and shall be paid to Her Majesty for the use of this Province. 58 V. c. 10, s. 9.

When returns are not duly made to Department by municipalities.

Rev. Stat. c. 223.

9. In case any of the returns under the preceding sections are not made as required, or in case any of the municipal returns to the Bureau of Industries required under *The Municipal Act*, or under any amendment which may be made thereto are not made, or in case the returns so made are not satisfactory to the Minister of Agriculture, the Minister may direct some competent person to examine the books and records of the office or person designated by statute to report thereon and to make the return required, and the person so directed by the Minister shall, upon the production of his written instructions from the Minister, have full and free access to all the books and records necessary to the making up of the said return, and any person refusing to allow the person so directed to have full and free access to such books and records shall upon summary conviction thereof be subject to a fine of not less than \$20 nor more than \$100 and costs, and in case of default in payment thereof such person may be committed to the common jail for any term not less than thirty days, nor more than six months. 60 V. c. 10, s. 2.

CHAPTER 43.

An Act for the Encouragement of Agriculture,
Horticulture, Arts and Manufacturers.

SHORT TITLE, s. 1.	Horse racing prohibited at, s. 29.
INTERPRETATION, s. 2.	Constables may enter exhibition grounds, s. 30.
EXISTING SOCIETIES CONTINUED, ss. 3, 15, 32.	OTHER ASSOCIATIONS—
DISPUTES AS TO CONSTRUCTION OF ACT TO BE DECIDED BY COMMISSIONER, s. 4.	Sections 26-29 of Act may be made applicable to, s. 31.
INSPECTION OF ACCOUNTS OF SOCIETIES RECEIVING GOVERNMENT AID, s. 5.	Incorporation of continued, s. 32.
DISTRICT AND TOWNSHIP AGRICULTURAL AND HORTICULTURAL SOCIETIES—	Meetings and elections, s. 33.
Organization, officers, members and first meeting, ss. 6, 7.	By-laws and powers of officers, s. 34.
Name, s. 8.	Annual report, s. 35.
Object, s. 9.	Share of legislative grant, ss. 36, 37.
Annual meetings, ss. 10, 11.	AUDIT OF ACCOUNTS, s. 38.
Reports, s. 12.	GENERAL PROVISIONS AS TO ELECTIONS, ss. 39-42.
By-laws and regulations, s. 13.	SPECIAL MEETINGS OF DIRECTORS, s. 43.
Meeting of directors, s. 14.	SECURITY BY TREASURER, s. 44.
Power of societies, ss. 15, 16.	MUNICIPAL AID TO SOCIETIES, s. 45.
Dissolution of union societies, ss. 17, 18.	FARMERS' INSTITUTES, ss. 46-48.
Legislative grant, ss. 19-21.	PROPERTY OF AGRICULTURAL AND ARTS ASSOCIATION, s. 49.
Exhibitions and conduct at, ss. 22-28.	HERD BOOKS AND PEDIGREES, ss. 50, 51.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Agriculture and Arts Act.*" Short title.
58 V. c. 11, s. 1.

2. In the construction of this Act,

1. "Department" shall mean the Department of Agriculture. Interpretation.
2. "Minister" shall mean the Minister of Agriculture for the Province of Ontario.

3. "Division" shall mean a Division composed of Districts as set forth in Schedule A annexed to this Act.

4. "District" shall mean a District composed of municipalities as set forth in Schedule B annexed to this Act.

5. "District Society" shall mean District Agricultural Society.

6. "Township Society" shall mean Township Agricultural Society. 58 V. c. 11, s. 2.

Existing societies continued.

3. All Agricultural and all Horticultural Societies, and all Associations organized under any former *Agriculture and Arts Act*, shall be continued except so far as they may be altered or affected by this Act. 58 V. c. 11, s. 3.

Minister to decide disputes.

4. The Minister may decide all matters of doubt or dispute as to the working or construction of this Act, and his decision shall be final, except that an appeal therefrom may be made to the Lieutenant-Governor in Council. 58 V. c. 11, s. 4.

Minister may appoint persons to inspect accounts of societies, etc.

5. The Minister may appoint any person or persons to inspect the books and accounts of any society, association or body in the Province receiving Government aid, under or by virtue of this Act, and may empower such person to summon witnesses and enforce the production of documents before him, and to take evidence upon oath in regard to such inspection; and all officers of any such society or body whenever required so to do, shall submit the books and accounts thereof to such inspection and shall truly to the best of their knowledge answer all questions put to them in relation thereto, or to the funds of such society or body. 58 V. c. 11, s. 5.

DISTRICT AGRICULTURAL, TOWNSHIP AGRICULTURAL AND HORTICULTURAL SOCIETIES.

Where societies may be organized.

6.—(1) A District Agricultural Society may be organized in each of the districts set forth in Schedule B, annexed to this Act; a Township Agricultural Society may be organized in any township, and a Horticultural Society may be organized in any city, town or incorporated village.

(2) Any two or more townships may unite for the purpose of organizing a Township Agricultural Society, and any two or more adjacent incorporated villages, towns or cities may unite for the purpose of organizing a Horticultural Society. 58 V. c. 11, s. 6 (1-2).

Horticultural societies in certain cities.

(3) Any of the District Societies of Ottawa, London, Hamilton and Kingston may, with the consent and approval of the Minister, become and be known as a Horticultural Society, and at the same time be entitled to receive the grant as though it were a District Society, and during its continuance as a Horti-

cultural Society no other District or Horticultural Society shall be organized under this Act in the same municipality, provided as follows:

- (a) That no other Horticultural Society is at the time Proviso. incorporated under this Act in the municipality.
- (b) That a majority of the members present at an annual meeting, or at a special meeting called, as provided in paragraph *a* of section 7, shall by vote express their desire to become a Horticultural Society.
- (c) That a petition to this effect signed by fifty members shall be sent to the Minister. 59 V. c. 14, s. 2.

7.—(1) The mode of organization shall be as follows:— Mode of organization.

- (a) A declaration in the form of Schedule C to this Act shall be signed by those persons (residents of the municipality or municipalities in which the society is organized) desiring to organize a society under this Act. In the case of a District Agricultural Society the number of such persons shall be at least eighty, and in the case of a Township Agricultural Society or a Horticultural Society the number shall be at least fifty where the number of ratepayers is two hundred or over, and at least thirty where the number of ratepayers is less than two hundred.
- (b) No person shall be considered a member of any District, Township or Horticultural Society for any year unless he shall have paid at least one dollar into the funds of that society as membership fee for that year.
- (c) Within one month after the money has been so paid a true copy of the said declaration, with the names and addresses of the signers of the same, shall be transmitted to the Minister, who shall thereupon authorize a person to call the first meeting for the organization of the society.
- (d) The first meeting of the District Society shall be held on the third Wednesday of January next ensuing, and the first meeting of the Township or Horticultural Society shall be held on the second Wednesday of January next ensuing, of which meeting at least two weeks' public notice shall be given by advertisement in one or more newspapers published in the district and also by printed placards or bills posted in local places of common resort. 58 V. c. 11, s. 7 (*a-d*).
- (e) At the said first meeting, and at all subsequent meetings of any Agricultural or Horticultural Society, Quorum at meetings of societies. ten members shall constitute a quorum. 59 V. c. 14, s. 3.

Proceedings
at first meet-
ing.

(f) At the said first meeting there shall be elected a President, a First Vice-President, a Second Vice-President, and not more than nine other directors, who together shall form the board of directors, a majority of which board shall be resident in the municipality or municipalities in which the society is organized. At the said first meeting the society shall appoint two Auditors for the ensuing year.

Appointment
of secretary
and treasurer.

(g) The board of directors from among themselves or otherwise shall appoint a Secretary and a Treasurer or a Secretary-Treasurer.

Report of
organization
meeting.

(h) A report of the organization meeting certified by the President and Secretary and containing a statement of the number of members and a list of the officers elected and appointed shall be sent within one week after the holding of the meeting to the Department. 58 V. c. 11, s. 7 (f-h).

Firms and
companies
may be mem-
bers of
societies.

(2) Subject to the by-laws of the Society, a firm or an incorporated company may become a member of any Society or Association incorporated under this Act by the payment of the regular fee, but the name of one person only shall in any one year be entered as the representative or agent of such firm or company, and that person only shall exercise the privileges of membership in the Society or Association. 60 V. c. 11, s. 2.

Names of
societies.

8. Upon the receipt of such report the society so organized shall be deemed a District Agricultural, a Township Agricultural or a Horticultural Society, as the case may be. The District Societies shall bear the name of the district, as set forth in Schedule B, and the Township and the Horticultural Societies shall bear the names of the Municipality or Municipalities wherein they are situated; and each society so constituted and recognized shall be entitled to the legislative grant hereinafter provided and to enjoy all the privileges granted by this Act. 58 V. c. 11, s. 8.

Objects of
district and
township
societies.

9.—(1) The objects of District and Township Societies shall be to encourage improvement in agriculture, horticulture, manufactures and the useful arts:—

(a) By importing and otherwise procuring seeds, plants and animals of new and valuable kinds;

(b) By offering prizes for essays on questions of scientific inquiry relating to agriculture, horticulture, manufactures, and the useful arts;

(c) By awarding premiums for excellence in the raising or introduction of stock, for the invention or improvement of agricultural or horticultural implements and machinery, for the production of grain and of

all kinds of vegetables, plants, flowers and fruits, and generally for excellence in any agricultural or horticultural production or operation, article of manufacture or work of art.

- (d) By carrying on experiments in the growing of crops, the feeding of stock or any other branch of agriculture, or by testing any system of farming through arrangement with one or more of the farmers of the municipality in which the Society is organized.

(2) The objects of Horticultural Societies shall be to encourage improvement in horticulture:— Objects of horticultural societies.

- (a) By holding meetings for discussion and for hearing lectures on subjects connected with the theory and practice of improved horticulture;
- (b) By promoting the circulation of horticultural periodicals;
- (c) By importing and otherwise procuring seeds and plants of new and valuable kinds;
- (d) By offering prizes for essays on questions of scientific inquiry relating to horticulture;
- (e) By awarding premiums for the invention or improvement of horticultural implements and machinery, for the production of all kinds of vegetables, plants, flowers and fruits, and generally for excellence in any horticultural production and operation.

(3) None of the funds of any of such societies, howsoever derived, shall be expended for any purpose inconsistent with those above mentioned. 58 V. c. 11, s. 9. Application of funds.

10.—(1) The annual meetings of the several societies shall be held in each year as follows: that of a Township Agricultural Society on the second Wednesday of January at one o'clock in the afternoon; that of a Horticultural Society on the second Wednesday of January at half past seven o'clock in the evening; that of a District Agricultural Society on the third Wednesday of January at one o'clock in the afternoon, except in the case of a City District Society which shall hold its meeting at half past seven o'clock in the evening. At any such meeting only those members who have paid their subscription for the ensuing year shall be entitled to vote. 58 V. c. 11, s. 10 (1); 59 V. c. 14, s. 4. Annual meetings.

(2) At least two weeks' previous notice of any such meeting shall be given by advertisement in one or more newspapers published in the municipality or municipalities to which the Society belongs and also by printed placards or bills posted in places of common resort. Notice of meetings.

When society fails to hold its annual meeting.

(3) In case any Society shall, through any cause, fail to hold its annual meeting at the time appointed, the Minister, on petition of twenty members, may appoint a time for holding the same before the first day of April in the same year, the meeting to be called as for the regular annual meeting, and this meeting shall in all particulars be taken as the annual meeting of the Society. 58 V. c. 11, s. 10 (2-3).

Dissolution of society for non-compliance with Act.

(4) In the event of the annual meeting not being held as provided for in this Act, or in the event of the number of members on the first day of September in any year being less than the number required for organization, the Society shall not be entitled to receive any further financial aid from the Legislature of the Province, and shall be deemed to have been dissolved, but the directors elected at the last properly constituted meeting of the Society prior to the said first day of September shall be deemed to be trustees of the assets of the Society until the same are disposed of by the order of the Minister in accordance with the following subsection.

5. Upon being notified or becoming aware of the dissolution of any Society under the provisions of the preceding subsection, the Minister may order the directors to deliver over the assets, if any, remaining after all just debts have been paid, in the case of a Township or Horticultural Society to the directors of the District Society, and in the case of a District Society to the directors of the Township and Horticultural Societies of the District, in proportion to the number of paid up members of these several societies at the end of the previous year. 59 V. c. 14, s. 5.

Business to be transacted at annual meetings.
Annual report.

11. In addition to any other business the following business shall be transacted at the annual meeting :—

(a) The board of directors shall present at such meeting a report of their proceedings for the past calendar year, in which shall be stated the names of all the members of the Society, the amount paid by each being set opposite to his name, the amount offered and also the amount awarded in prizes for each kind of live stock, agricultural products, implements, domestic products or other objects respectively, the number of entries in each class, together with such remarks and suggestions upon the agriculture and horticulture of the District, and the arts and manufactures therein, as they are enabled to offer.

(b) In the case of Horticultural Societies the said information shall be with reference to horticulture and arts only.

(c) The board of directors shall present a detailed statement of the receipts and expenditures for the pre-

Financial statement.

ceding year, also a statement of the assets and liabilities of the Society at the end of the year, certified to by the auditors,

- (d) The officers and other directors specified in clause (f) of section 7, and to be qualified as therein provided, shall be elected by the members; and Auditors shall be appointed for the ensuing year. 58 V. c. 11, s. 11; 60 V. c. 15, Sched. A (63).
- Election of directors, etc.

12. The said reports shall, if approved by the meeting, be placed on permanent record in the books of the Society, and shall be sent within one month to the Department and the Minister may require all such reports to be made out on schedules to be supplied by the department in such form as he may direct. 58 V. c. 11, s. 12.

Report to be recorded and transmitted to Department.

13. The members of each Society may at an annual meeting or at a special meeting, of which two weeks' previous notice has been given by advertisement in the manner required by subsection 2 of section 10 make, alter and repeal by-laws and regulations for the general management of the Society; subject to these by-laws and regulations, the board of directors shall have full power to act for and in behalf of the Society and all grants and other funds of the Society shall be received and expended under their direction. 58 V. c. 11, s. 13.

At what meetings by-laws and regulations may be passed.
Powers of directors.

14. The first meeting of the board of directors of a Society may be held upon the day of the annual meeting, and the subsequent meetings shall be held pursuant to adjournment, or shall be called by written notice given by authority of the President, or in his absence of the First Vice-President, or in the absence or on the neglect of the President or Vice-President, then on the written request of any three of the directors, at least one week before the day appointed, and at any meeting five shall be a quorum. 58 V. c. 11, s. 14.

Meetings of directors.

15.—(1) All District, Township and Horticultural Societies now or hereafter organized, shall be bodies corporate, with power to acquire and hold land as a site for fairs and exhibitions and, subject to the approval of a meeting of the Society called for the purpose, to sell, mortgage, lease, or otherwise dispose of the same, or any other property held by such Societies.

Societies to be bodies corporate with power to hold, etc., land for certain purposes.

(2) At least two weeks' previous notice of such meeting shall be given by advertisement in one or more newspapers published in the County or District and by printed placard; and at such a meeting only those persons shall be entitled to vote who are members for the current year and who were also members for the two previous years. 58 V. c. 11, s. 15.

Powers as to
lands held
jointly.

16. Any Township Society and Town or Village municipality that had, prior to the 4th day of March, 1868, jointly purchased and held any lands or buildings for the purpose of agricultural fairs or exhibitions, may continue jointly to hold such lands or buildings, or may sell, mortgage, lease or otherwise dispose of the same, subject to the approval of a meeting of the Society as provided in section 15. 58 V. c. 11, s. 18.

Dissolution
of union
societies.

17. Where two or more municipalities have been united to form a Township or a Horticultural Society a dissolution of such Union Society may be effected in the following manner: a petition requesting a dissolution and the organization of new societies shall be signed by a majority of the members residing in any one of the municipalities and shall be forwarded to the Minister, and if the number so signing is equal to the number required for the organization of a new Society as in section 7, the Minister shall direct that new societies shall be organized in the manner prescribed in section 7, and the former Union Society shall thereupon become dissolved and shall cease to exist. 58 V. c. 11, s. 16.

Apportion-
ment of assets
on dissolution
of union
society.

18. On the dissolution of a Union Society the assets of the said Society shall be equitably apportioned or divided by arbitrators, or a majority of them, one to be appointed by the board of directors of each of the new societies, and another arbitrator to be chosen by the arbitrators so appointed, or, in the event of the said arbitrators failing to choose such arbitrator within ten days after being appointed, then the Senior County Judge or the Stipendiary Magistrate having jurisdiction in the District shall appoint such arbitrator. In case of disagreement the matter shall be referred to the Senior Judge of the County or the Stipendiary Magistrate, for final decision. 58 V. c. 11, s. 17.

LEGISLATIVE GRANTS.

Proofs requir-
ed to be fur-
nished by
societies.

19. On or before the 1st day of September in each year the officers of every District, Township and Horticultural Society shall send to the Department an affidavit, which may be sworn to before any Justice of the Peace, in the form of Schedule D annexed to this Act, stating the number of members and the total amount paid in at that time for membership fees to the officers of the Society for the current year. 58 V. c. 11, s. 19.

Conditions of
grant.

20. Every District Society, every Township Society and every Horticultural Society organized under or recognized by this Act, shall be entitled to receive a grant out of the unappropriated moneys in the hands of the Treasurer of the Province, the grant to be paid on the recommendation of the Department, and upon the following conditions:—

- (a) That the number of paid-up members for the current year is not less than the number required for organization.
- (b) That all reports and returns required by this Act have been made to the satisfaction of the Minister.
- (c) That the annual meeting has been held as required and officers elected, in accordance with section 11.
- (d) That the objects of the said Society as given in section 9, have been strictly adhered to, and that none of the funds of the Society, from whatever source derived, have been expended in any manner not in harmony with these objects. 58 V. c. 11, s. 20.

21. The division of the legislative grant for each District shall be made as follows:— Apportionment of grant.

- (a) An amount not exceeding \$420 shall be subject to division among the Township and Horticultural Societies of each District, to be divided in proportion to the number of paid-up members of the previous year, as shown by the treasurer's audited statement and the certified list of members sent to the Department; Provided that on or before the first day of September of the year in which the grant is paid the treasurer shall make affidavit as to the number of members for the current year, as provided for in section 19 of this Act; but any one Society shall not receive more than \$140, nor shall any one Society receive more than three times the amount reported as paid up by its members, and not more than one hundred and forty members shall be counted for any one Society in making the division of the grant. 59 V. c. 14, s. 6.
- (b) In case a Township or Horticultural Society is situated within two Districts it shall receive from each of the grants made to these Districts, but in the proportion of only one-half of the number of its members in each case.
- (c) The remainder of the legislative grant for each District after thus paying to the Township and Horticultural Societies (if there are any) the moneys to which they are entitled, shall be payable to the District Society.
- (d) The District of the City of Toronto shall not receive more than \$550 in any year; and the Districts of the City of Kingston, the City of Hamilton, the City of London, the City of Ottawa, the Town and Township of Cornwall, and the Town and Township of Niagara, shall not receive more than \$350 respectively, in any year.

- (e) The Districts of North Muskoka and South Muskoka shall not receive in any year more than \$600, of which not more than \$220 shall be subject to division among the Township and Horticultural Societies, and of which no single Township Society shall receive more than \$100. 58 V. c. 11, s. 21 (b-e.)

EXHIBITIONS.

Where exhibitions to be held.

22.—(1) The exhibition of any Society shall be held within the limits of the municipality or municipalities in which the Society is organized, and in case of a Union of two or more Societies it shall be held within the limits of the municipalities included in the Union; the place or places to be decided by a by-law or regulation of the Society.

Changing place of holding exhibitions.

(2) Whenever the members of any District or Township Society have by by-law or resolution fixed upon a place or places for holding the exhibition or exhibitions of such Society for any year or years then the place or places for holding such exhibition or exhibitions shall not be changed except by the decision of a majority of the qualified voters, as follows:—

- (a) A special meeting of the members shall be called by the board of directors for the expressed purpose of considering the question.
- (b) At least two weeks' previous notice of such meeting shall be given by advertisement as in subsection 2 of section 10.
- (c) Only paid-up members for the current year who were also members in the previous year shall be qualified to vote.
- (d) The meeting shall be called for ten o'clock in the forenoon, and if a poll is demanded it shall be opened at once and remain open until six o'clock except that it may be closed by the presiding officer of the society if at any time one hour elapses without a vote being polled. 58 V. c. 11, s. 22.

Union of district and township societies.

23.—(1) Any two or more District Societies, or a District Society and any Township or Horticultural Society or Societies, or any two or more of such Township or Horticultural Societies, or the Society of a City District and any Township or Horticultural Society or Societies adjoining such City District, may, by agreement between the officers or a majority of the officers of each such Society, unite their funds or any portion thereof for the erection of suitable buildings in which to exhibit articles of produce or manufacture, or works of art, and for annual or extra exhibitions, or for plowing matches, or for any other purpose likely to promote agriculture, horticulture, arts and manufactures, and may, from time to time, acquire

by purchase or lease, and hold, sufficient land for this purpose, and may, subject to the approval of a meeting of the Society called for the purpose (at which meeting only paid-up members of at least two years' standing shall be allowed to vote), sell, mortgage, lease or otherwise dispose of the same. 58 V. c. 11, s. 23.

(2) The directors of the societies so uniting shall be directors of the union society, and shall elect, from among themselves, a president, a first vice-president and a second vice-president. Directors of union societies.

(3) They shall also elect, from among themselves or otherwise, a secretary and a treasurer or a secretary-treasurer, and they shall appoint as auditors two persons who are not members of the joint board of directors. Secretary, treasurer and auditors.

(4) All the by-laws and regulations of the union society must be approved by two-thirds of all the members of the joint board of directors at a regular meeting or a meeting called specially for this purpose. 59 V. c. 14, s. 7. Adoption of regulations of union society.

24.—(1) The exhibitions of any Township Society shall be held at such place as shall afford sufficient accommodation for such exhibitions, but no separate township exhibition shall be held within five miles of the place at which the district exhibition is held for any year in the same township. Township society exhibitions.

(2) A Township Society may unite with a District Society, and may merge its funds with those of a District Society for that year, and if so merged the members of such Township Society shall be entitled to all the privileges of members of the District Society at the exhibition, and the president, vice-president, and directors of such Township Society shall be co-directors with the directors of the District Society for the conducting and management of such exhibitions.

(3) Where a Township Society unites with a District Society other than the District Society within the limits of which the township is situated, the Township Society shall only be entitled to share in the distribution of the government grant upon the amount of members' subscriptions paid by members resident within the township, and the secretary of the Township Society in his returns to the Department shall distinguish the members so resident from other members. 58 V. c. 11, s. 24.

25. The board of directors of any Association or Society organized under this Act, on being made aware of any fraud having been committed by any member or exhibitor in the entry of any stock or goods in competition for prizes at any exhibition, shall have the power of withholding the payment or delivery of any prizes that may have been awarded by the judges to such members or exhibitors on any entries made at such exhibition. 58 V. c. 11, s. 25. Frauds at exhibitions.

KEEPING THE PEACE, ETC., AT EXHIBITIONS.

Justices of the peace may appoint policemen, etc.

26. Any Justice of the Peace having jurisdiction in any city, town, village or township, wherein a fair or exhibition is, or is to be, held shall, on the request of the president or executive committee of any Agricultural or Horticultural Society, appoint as many policemen or constables as may be required at the expense of the said Association or of such Society, said policemen or constables to be named by such Association or Society, and it shall be the duty of the said policemen or constables to protect the property of such Association or Society within the exhibition grounds, and to eject all persons who may be improperly within the grounds, or who may behave in a disorderly manner, or otherwise violate any of the rules or regulations of such Association or Society. 58 V. c. 11, s. 26.

Penalty for obstructing officers or gaining admission contrary to rules.

27. If any person wilfully hinders or obstructs the officers or servants of any Agricultural or Horticultural Society in the execution of their duty, or gains admission to the said grounds contrary to the rules of such Association or Society, he shall, on conviction thereof before a Justice of the Peace, be subject to a fine of not less than \$1 nor more than \$20; such fine to be enforced and collected as fines are usually collected, and to be paid over to such Association or Society for its use and benefit; and in default of payment the said offender shall be imprisoned in the common goal for a period of not more than thirty days. 58 V. c. 11, s. 27.

Gambling, etc., to be prevented.

28—(1) The officers of any such Association or Society may by their rules and regulations prohibit and prevent all kinds of theatrical or circus or acrobatic performances, exhibitions or shows, and may also regulate or prevent the huckstering or trafficking in fruits, goods, wares or merchandise on the exhibition grounds, or within 300 yards thereof; and any person who, after due notice of such rules and regulations, violates the same shall be liable to be removed by the officers, policemen or constables of said Association or Society, and be subject to the penalty prescribed by the next preceding section.

Penalty.

(2) The officers of any such Association or Society shall prevent all kinds of gambling and all games of chance at the place of holding the exhibition or fair, or within 300 yards thereof, and any Association or Society permitting the same shall forfeit all claim to any Legislative grant during the year next ensuing. 58 V. c. 11, s. 28.

Horse racing prohibited during exhibitions.

29.—(1) It shall not be lawful to carry on any horse racing other than trials of speed under the control and regulation of the officers of the Society during the days appointed for holding any exhibition by any District or Township Society, at the place of holding the exhibition or within five miles thereof.

(2) Any person who is guilty of a violation of this section shall be liable, upon summary conviction before a Justice of the Peace, to a fine not exceeding \$50, or imprisonment in the common gaol of the county for a period not exceeding thirty days. 58 V. c. 11, s. 29. Penalty.

30. Any Dominion or Provincial constable shall have the right of free entrance to the grounds and to all the buildings on the grounds where a fair or exhibition is being held under the direction of any Society or Association to which this Act applies, during the time that the fair or exhibition is being held. 59 V. c. 14, s. 8. Dominion and Provincial constables to have free access to fair grounds.

[As to right of constables to free access, see also Cap. 244, sec. 7.]

OTHER ASSOCIATIONS.

31. Upon the petition of any Association or Society not subject to the provisions of this Act, but formed for carrying out the objects, or any one or more of the objects, of an Association or Society incorporated under the Act, being presented to the Lieutenant-Governor in Council, the Lieutenant-Governor may, by Order-in-Council, declare that sections 26, 27, 28 and 29, of this Act shall apply to the Association or Society so petitioning, and thereafter the said sections shall apply to such Association or Society in the same manner and to the same extent as if it had been incorporated under this Act, and every such Order in Council shall be published in *The Ontario Gazette* for two weeks following the date of the passing of such Order-in-Council. 59 V. c. 14, s. 10. Declaring that certain sections of the Act apply to societies not incorporated under it.

32. The following societies, organizations or associations, whether heretofore incorporated or not shall be or continue to be bodies corporate under the provisions of this Act, the membership of each to comprise not less than 50 persons, each paying at least \$1 annual membership fee : Certain other societies under operation of Act.

The Ontario Fruit Growers' Association.

The Entomological Society of Ontario.

The Cheese and Butter Association of Eastern Ontario.

The Cheese and Butter Association of Western Ontario.

The Poultry Association of Ontario.

The Eastern Ontario Poultry and Pet Stock Association.

The Ontario Bee-keepers' Association.

The Ontario Agricultural and Experimental Union.

The Dominion Sheep Breeders' Association.

The Dominion Swine Breeders' Association.

The Dominion Cattle Breeders' Association.

The Canadian Horse Breeders' Association.

58 V. c. 11, s. 30 ; 59 V. c. 14, s. 9 ; 60 V. c. 11, s. 3

Annual meetings, officers, etc.

33.—(1) Each of such Associations shall hold an annual meeting at such time and place as may be determined upon by the members; and each Association shall at such annual meeting elect a president, one or two vice-presidents and also not less than five or more than nine directors, all of whom shall constitute the board of directors; the Cheese and Butter Association of Eastern Ontario, and the Cheese and Butter Association of Western Ontario may, each elect three vice-presidents, who shall be members of the respective boards of such Associations.

(2) The Ontario Fruit Growers' Association, shall elect one director from each division as set forth in Schedule A to this Act.

(3) The Cheese and Butter Association of Eastern Ontario shall elect one director from each of the divisions Nos. 1, 2, 3, 4, 5 and 6 in the said Schedule A.

(4) The Cheese and Butter Association of Western Ontario shall elect one director from each of the divisions Nos. 7, 8, 9, 10, 11, 12 and 13 in the said Schedule A.

(5) The Eastern Ontario Poultry and Pet Stock Association shall elect one director from each of the divisions Nos. 1, 2, 3 and 4 in the said Schedule A.

(6) The Poultry Association of Ontario shall elect one director from each of the divisions Nos. 5, 6, 7, 8, 9, 10, 11, 12 and 13 in the said Schedule A.

(7) The Ontario Entomological Society shall elect five directors, one from each of five divisions, to be arranged by themselves at their annual meeting.

(8) The other associations shall arrange by by-law for the representation of directors.

(9) Every board of directors so elected shall appoint from amongst themselves or otherwise, a secretary, and a treasurer, or a secretary-treasurer.

(10) In addition to the directors herein provided for, the members of any Association may at the annual meeting elect as an additional director any officer of the Ontario Agricultural College and Experimental Farm. 58 V. c. 11, s. 31; 60 V. c. 11, s. 4 (1-3).

By-laws and regulations.

34. All by-laws and regulations of the said Associations must be approved of by a majority of the members present at an annual meeting, or at a special meeting called for the purpose of considering the same, and of which at least two weeks' notice shall be given by public advertisement. 58 V. c. 11, s. 32 (1).

Powers of officers.

35. The officers shall have full power to act for and on behalf of the Association, and all grants of money and other

funds of the Association shall be received and expended under their direction, subject, nevertheless, to the by-laws and regulations of the Association. 58 V. c. 11, s. 32 (2).

36. At each annual meeting the retiring officers shall present a full report of their proceedings, and of the proceedings of the Association, and a detailed statement of the receipts and expenditure for the previous year and of the assets and liabilities, duly audited; a copy of the said report, a statement of the receipts and expenditures, a statement of the assets and liabilities, a list of members and a list of the officers elected, and also such general information on matters of special interest to each Association that such Association has been able to obtain, shall be sent to the Minister within forty days after the holding of such annual meeting. 58 V. c. 11, s. 33.

Statements at annual meeting.

37.—(1) Each of the said Associations shall be entitled to receive from unappropriated moneys in the hand of the Treasurer of the Province a specified sum to be placed in the estimates and voted by the Legislature for each year on the following conditions:

Conditions upon which associations shall share in Legislative grant.

- (a) That the number of *bona fide* members, each paying an annual subscription of not less than one dollar, is at least fifty.
- (b) That the secretary of each of the said Associations shall, on or before the 1st day of September in each year, transmit to the Minister an affidavit, which may be sworn to before any Justice of the Peace, stating the number of members who have paid their subscriptions for the current year, and the total amount of such subscriptions.
- (c) That the general provisions of this Act applying to such Association have been complied with.
- (d) That none of the funds of the Association, from whatever source derived, have been expended in a manner inconsistent with the purposes of organization of the said Association.

(2) In the case of each of the Poultry Associations the grant shall not be paid if the show or exhibition be held in any one place for two years in succession, or in any place within forty miles from the place at which the show or exhibition was held in the previous year. 58 V. c. 11, s. 34.

AUDIT OF ACCOUNTS.

38. The Minister may appoint a person who shall audit the accounts of any of the Associations to which this Act applies, and such auditor shall present a report of the result of his audit to the officers of the Association and also to the Minister. 58 V. c. 11, s. 35.

Auditing accounts.

GENERAL PROVISIONS AS TO ELECTIONS.

Right of
voting.

39. All persons not under eighteen years of age who have paid the membership subscription for the year then next ensuing to any Society or Association to which this Act applies shall have the right of voting at the election of officers, and on all other questions submitted to the annual meetings of such Societies. 58 V. c. 11, s. 36.

Payment of
subscriptions
after poll
opened not to
entitle to vote.

40.—(1) No membership subscriptions for the ensuing year paid after the president or presiding officer has declared the poll open for the election of officers shall entitle any member to vote for such officers, or shall render him eligible for election as an officer, nor, except in the case of the City District Societies and the Horticultural Societies, shall any votes be received earlier than one o'clock in the afternoon nor later than six o'clock in the afternoon of the same day.

(2) In the case of the Toronto, Hamilton, Ottawa, Kingston and London District Societies and also in the case of all Horticultural Societies the hours for opening and closing the poll shall be fixed by by-law of each Society. 58 V. c. 11, s. 37.

Vacancies.

41. Except as otherwise provided, a vacancy occurring by the death or resignation of any officer of an Agricultural or other Society organized under this Act may be filled by the remaining officers thereof; and it shall be the duty of such officers, and they are hereby empowered, to nominate and appoint a fit and proper person to fill the office for the unexpired term of the person so dying or resigning; but in the event of the remaining officers being insufficient to form a quorum, or if for any reason a quorum cannot be obtained, then persons to fill the vacant offices shall be elected in manner provided in the next section. 58 V. c. 11, s. 38.

Where elec-
tion illegal
and void.

42.—(1) In the event of an election of any officers of any Association, Society or other body coming within the provisions of this Act not being held at the time or place herein directed, or being for any reason illegal and void, then the persons in office at the time when such officers should have been elected shall continue to be, and shall be deemed to be, the officers of such Association, Society or body until their successors are legally appointed.

(2) In the event of any such non-election or illegal election, a special meeting of the members of such Association, Society or other body shall be called as soon as practicable for the election of such officers; such meeting to be called (in the manner provided in subsection 2 of section 10) by the president, or in his absence or on his neglect by the vice-president, or in the absence or on the neglect of the president and vice-president, then by any three members of the Association, Society or other body; and at such meeting the

election of officers shall take place, and the persons elected shall thenceforth, until their successors are appointed, be and be deemed to be the officers of such Association, Society or body. 58 V. c. 11, s. 39.

MEETINGS OF DIRECTORS.

43. A special meeting of the directors of any Association or Society organized under this Act may be called by the president thereof, or in his absence or on his neglect, by the vice-president, or in the absence or on the neglect of the president or vice-president, then by any three members of such body, of which meeting at least seven days' notice shall be given to each member; and, except as otherwise provided for, a majority of the directors of any such body shall be a quorum. 58 V. c. 11, s. 40.

Special meetings of directors.
Quorum.

SECURITY BY TREASURER.

44.—(1) The treasurer of every Association or Society organized under this Act before entering upon the duties of his office shall give such security, either by joint or several covenant with one or more sureties, which may be in the form given in Schedule E to this Act or otherwise, as the board of directors or other managing officers may deem necessary, for the faithful performance of his duties, and especially for the duly accounting for and paying over all moneys which may come into his hands.

Treasurers to give security.

(2) It shall be the duty of every such board in each and every year to inquire into the sufficiency of the security given by such treasurer and report thereon; and where the same treasurer for any society is reappointed from year to year his reappointment shall not be considered as a new term of office, but as a continuation of the former appointment, and any bond or security given to the society for the faithful performance of his duties under such reappointment shall continue valid as against the parties thereto. 58 V. c. 11, s. 41.

MUNICIPAL AID TO AGRICULTURAL AND OTHER SOCIETIES.

45.—(1) The municipal council of any city, town, village, county or township in this Province may grant or loan money or grant land in aid of any Agricultural Society or Horticultural Society formed within the limits of the municipality, or partly within the limits of such municipality and partly within the limits of other municipalities, or wholly within the limits of an adjoining municipality, when such Society has made the returns required by this Act to be made to the Minister in the case of a Township Society; Provided always that the total amount or value of the money or land heretofore or hereafter granted or loaned by any municipality to an Agricultural Society under

Aid from municipal councils to agricultural associations.

this section shall not exceed, in the case of a city, \$3,000, in the case of a township or town, \$2,000, and in the case of a village, \$1,000.

(2) If such grant is a loan of money to enable the said Association or Society to acquire lands, such municipality may hold the lands so acquired or may take a mortgage thereon, as security for the amount of such grant until the amount of such grant be repaid to the municipality; and any such grant heretofore made in accordance with the provisions of this Act shall be legal and valid. 58 V. c. 11, s. 42 (1), s. 46.

Agreements between municipalities and companies or societies for the use of buildings, etc.

(3) Any of the said municipalities owning lands or buildings for public purposes shall have power to make agreements on such terms and for such periods as they may deem expedient with any Company now formed or hereafter to be formed, under the provisions of chapter 196 of the Revised Statutes of Ontario, 1897, or of any amendment which may be made thereto, or with any Agricultural or Horticultural Association, for the use of such lands or buildings, or either of them, or for the privilege of erecting on said lands (subject to such terms as may be agreed on) such buildings as they may require for agricultural or industrial shows, and to give the said companies the power of renting said grounds and buildings when owned by said company to any Agricultural or Horticultural Association formed under this Act or any amendment thereto, to and for the purposes of the annual show or shows of said Association, and to grant to such Company or Association the power to collect during said show, or at other times, as may be agreed, from any person wishing to go into or upon any such grounds or buildings, or for any privileges thereon, or for any carriage, wagon or other vehicle, or for any horse or other animal which may be taken thereon, such entrance fee or other charge as the said Company or Association may deem necessary or expedient. 58 V. c. 11 s. 42 (2).

FARMERS' INSTITUTES.

When farmers' institutes may be formed.

46. The formation of Farmers' Institutes for the purpose of disseminating information in regard to agriculture shall be permitted under this Act, one for each district, named in Schedule B to this Act, but the Lieutenant-Governor in council may, upon the recommendation of the Minister, authorize the organization of additional Farmers' Institutes or make changes in the limits of the various districts so far as Farmers' Institutes are concerned, in order to increase their efficiency. 58 V. c. 11, s. 43.

Rules and regulations.

47. The Lieutenant-Governor in Council may, upon recommendation of the Minister, adopt rules or regulations for the general guidance or direction of such Farmers' Institutes. 58 V. c. 11, s. 44.

48. Every Farmers' Institute shall be entitled to receive such money out of the unappropriated funds in the hands of the Provincial Treasurer as the Legislature may grant, provided—

- (a) That the number of members is at least fifty, each paying an annual fee of not less than 25 cents.
- (b) That the rules or regulations approved by the Lieutenant-Governor in Council have been carefully observed.
- (c) That all reports or returns required to be made to the Department have been made to the satisfaction of the Minister. 58 V. c. 11, s. 45.

AGRICULTURE AND ARTS ASSOCIATION.

49. All the property and effects, real and personal, of what nature and kind soever at the time of its dissolution vested in the Agriculture and Arts Association or in the Council of the said Association or held in trust by the said Association or by the said council for the purposes of the same, or so much thereof as remains undisposed of, shall, subject to the lawful debts of the Association, continue vested in Her Majesty for the public uses of the Province. 58 V. c. 11, s. 47.

Property held
by association
vested in
Crown.

HERD BOOKS AND PEDIGREES.

50. The keeping of Registers of pure bred stock formerly delegated to the Council of the Agriculture and Arts Association in accordance with subsection 10 of section 28 of *The Agriculture and Arts Act, (1887)*, is hereby transferred to the various associations or bodies corporate which were engaged in such work conjointly with the said Council, and the Lieutenant-Governor in Council may, from time to time, appoint a person or persons on behalf of the Department of Agriculture to assist in such registration, and the salary of the person so appointed shall be payable out of the moneys set apart from year to year by the Legislature of the Province for agriculture, and the Minister may take any steps he deems necessary for continuing the keeping of the said Registers. 58 V. c. 10, s. 2, c. 11, s. 48.

Stock
registers.

R. S. O. 1887
c. 39.

51. Any person who wilfully signs any false pedigree intended for registration in any herd, flock or stud book, or who presents to the secretary or other officer having charge of the Register for the purpose of having the same entered therein, any false or spurious pedigree, knowing the same to be false or spurious, shall, upon summary conviction thereof, upon information to be laid within two years from the commission of the offence, before any Justice of the Peace, be liable to a penalty of not more than \$100 and not less than \$25, together with the costs of prosecution, for each pedigree so signed or presented as aforesaid by him. 58 V. c. 11, s. 49.

Falsifying
pedigrees.

SCHEDULE A.

(Sections 2 and 33)

AGRICULTURAL DIVISIONS.

1. Stormont, Dundas, Glengarry, Prescott and Cornwall.
2. Lanark North, Lanark South, Renfrew North, Renfrew South, Carleton, Russell and the City of Ottawa.
3. Frontenac, City of Kingston, Leeds and Grenville North, Leeds South, Grenville South and Brockville.
4. Hastings East, Hastings North, Hastings West, Addington, Lennox and Prince Edward.
5. Durham East, Durham West, Northumberland East, Northumberland West, Peterborough East, Peterborough West, Victoria North (including Haliburton) and Victoria South.
6. York East, York North, York West, Ontario North, Ontario South, Peel, Cardwell and the City of Toronto.
7. Wellington Centre, Wellington South, Wellington West, Waterloo North, Waterloo South, Wentworth North, Wentworth South, Dufferin, Halton and City of Hamilton.
8. Lincoln, Niagara, Welland, Haldimand and Monck.
9. Elgin East, Elgin West, Brant North, Brant South, Oxford North, Oxford South, Norfolk North and Norfolk South.
10. Huron East, Huron South, Huron West, Bruce North, Bruce South, Grey East, Grey North and Grey South.
11. Perth North, Perth South, Middlesex East, Middlesex North, Middlesex West and the City of London.
12. Essex North, Essex South, Kent East, Kent West, Lambton East and Lambton West.
13. Algoma East, Algoma West, Simcoe East, Simcoe South, Simcoe West, Muskoka, Parry Sound East, Parry Sound West, Nipissing East, Nipissing West and Manitoulin.

58 V. c. 11, Schedule "A."

SCHEDULE B.

(Section 2 and section 6, subsec. 1.)

DISTRICTS FOR WHICH AGRICULTURAL SOCIETIES HAVE BEEN OR MAY BE FORMED, AND THE TERRITORY WHICH THEY RESPECTIVELY COMPRISE.

ADDINGTON : The townships of Camden, Sheffield, Hinchinbrooke, Kaladar, Kennebec, Olden, Oso, Anglesea, Barrie, Clarendon, Palmerston, Ettingham, Abinger, Miller, North and South Canonto, Ashby, Denbigh and Bedford and the village of Newburgh.

ALGOMA, WEST : The territory forming the district of Rainy River, together with that part of the district of Thunder Bay which lies west of eighty-seven degrees west longitude.

ALGOMA, EAST : The territory forming the district of Algoma, together with that part of the district of Thunder Bay which lies east of eighty-seven degrees west longitude.

BRANT, NORTH : The township of South Dumfries, Onondaga, the northerly portion (hereinafter described) of the township of Brantford, and the town of Paris.

BRANT, SOUTH : The townships of Burford, Oakland, Tuscarora, the southerly portion of the township of Brantford, and the city of Brantford.

The said northerly portion of the township of Brantford includes and consists of all that portion of the said township which lies on the northerly side of the Grand River ; and the said southerly portion of the said township includes and consists of all the remainder of the said township of Brantford.

BROCKVILLE : The town of Brockville, the township of Elizabethtown, the township called Front of Yonge, the township called Rear of Yonge and Escott, and the village of Athens.

BRUCE, SOUTH : The townships of Brant, Carrick, Culross and Kinloss, the town of Walkerton and the villages of Lucknow and Teeswater.

BRUCE, CENTRE : The townships of Greenock, Kincardine, Elderslie and Huron, the town of Kincardine, and the villages of Paisley and Chesley.

BRUCE, NORTH : The townships of St. Edmonds, Lindsay, Eastnor, Albemarle, Amabel, Arran, Saugeen and Bruce, the town of Wiarton, and the villages of Southampton, Port Elgin, Tara and Tiverton.

CARDWELL : The townships of Caledon, Albion, Adjala and Tecumseth, and the villages of Bolton, Beeton and Tottenham.

CARLETON : The townships of Fitzroy, Goulbourn, Gower North, Huntley, March, Marlborough, Nepean and Torbolton, and the villages of Richmond, Ottawa East, and Hintonburgh.

CORNWALL : The town of Cornwall and the township of Cornwall.

DUFFERIN : The townships of Mono, Melancthon, Amaranth, Garafraxa and Mulmur, East Luther, the town of Orangeville, and the village of Shelburne.

DUNDAS : The townships of Matilda, Mountain, Williamsburg and Winchester, and the villages of Iroquois, Morrisburg, Chester-ville, and Winchester.

DURHAM, EAST : The townships of Cavan, Manvers and Hope, the town of Port Hope, and the village of Millbrook.

DURHAM, WEST : The townships of Clarke, Darlington and Cartwright, the town of Bowmanville, and the village of Newcastle.

ELGIN, EAST : The townships of Bayham, Malahide, Yarmouth, South Dorchester, the city of St. Thomas, the town of Aylmer, and the villages of Vienna and Springfield.

ELGIN, WEST : The townships of Southwold, Dunwich and Aldborough, and the villages of Port Stanley and Dutton.

ESSEX, NORTH : The townships of Tilbury West, Tilbury North, Rochester, Maidstone, Sandwich East, Sandwich South and Sandwich West, the city of Windsor, the towns of Sandwich and Walkerville, and the village of Belle River.

- ESSEX, SOUTH : The townships of Mersea, North Gosfield, South Gosfield, North Colchester, South Colchester, Malden and Anderdon, the towns of Amherstburgh, Leamington and Essex, the village of Kingsville, and the municipality of Pointe au Pelée Island.
- FRONTENAC : The townships of Kingston, Wolfe Island, Pittsburgh, Howe Island, Portland, Loughborough and Storrington, and the villages of Garden Island and Portsmouth.
- GLENGARRY : The townships of Charlottenburgh, Kenyon, Lancaster and Lochiel, and the villages of Alexandria, Lancaster and Maxville.
- GRENVILLE, SOUTH : The townships of Edwardsburg and Augusta, the town of Prescott, and the village of Cardinal.
- GREY, NORTH : The townships of St. Vincent, Sydenham, Sullivan, Derby, Keppel and Sarawak, and the towns of Owen Sound and Meaford.
- GREY, SOUTH : The townships of Bentinck, Glenelg, Normanby and Egreмонт, and the town of Durham.
- GREY, EAST : The townships of Osprey, Collingwood, Proton, Artemesia, Euphrasia and Holland, the town of Thornbury, and the villages of Dundalk and Markdale.
- HALDIMAND : The townships of Oneida, Seneca, Cayuga North, Cayuga South, Rainham, Walpole and Dunn, and the villages of Caledonia, Cayuga, and Hagersville.
- HALTON : The townships of Esquesing, Nassagaweya, Nelson, Trafalgar, the towns of Milton and Oakville, and the villages of Acton, Burlington, and Georgetown.
- HAMILTON : The city of Hamilton.
- HASTINGS, NORTH : The townships of Rawdon, Huntingdon, Elzevir, Madoc, Marmora, Lake, Tudor, Bangor, Carlow, Cashel, Dunganmon, Faraday, Grimsthorpe, Herschel, Limerick, Mayo, McClure, Monteagle, Wicklow, Wollaston, Sabine, Lyell, Airey, Murchison and Dickens, the villages of Madoc and Stirling.
- HASTINGS, EAST : The townships of Thurlow, Tyendinaga and Hungerford, the town of Deseronto, and the village of Tweed.
- HASTINGS, WEST : The city of Belleville, the township of Sydney, and the town of Trenton.
- HURON, SOUTH : The townships of Tuckersmith, Usborne, Stephen, Hay and Stanley, and that portion of the township of Goderich south of the line known as "the 6th line" and Huron road, the town of Seaforth, and the villages of Bayfield and Exeter.
- HURON, EAST : The townships of Howick, Grey, Morris, McKillop, and those parts of Hullett and Turnberry respectively which lie east of the road commonly called the Gravel Road, and the villages of Blyth, Brussels, and Wroxeter.
- HURON, WEST : The townships of Ashfield, Wawanosh (East and West), Colborne, and those parts of Hullett and Turnberry respectively which lie west of the road commonly called the Gravel Road, and that part of the township of Goderich north of the said Huron road and the "Cut Line," and the towns of Goderich, Clinton, and Wingham.
- KENT, EAST : The townships of Zone, Camden (with the Gore thereof), Orford, Howard and Harwich, the towns of Bothwell, Blenheim, Dresden, Ridgetown, and the village of Thamesville.

KENT, WEST : The townships of Romney, East Tilbury, Raleigh, Dover East, Dover West, and Chatham, the city of Chatham, the town of Wallaceburg, and the village of Tilbury.

KINGSTON : The city of Kingston.

LAMETON, EAST : The townships of Bosanquet, Warwick, Plympton, Brooke and Euphemia, the town of Forest, the villages of Alvinston, Arkona, Thedford, Wyoming and Watford.

LAMETON, WEST : The townships of Sombra, Dawn, Moore, Ennis killen and Sarnia, the towns of Sarnia and Petrolia, and the villages of Oil Springs and Point Edward.

LANARK, NORTH : The townships of Sherbrooke North, Dalhousie, Lanark, Ramsay, Lavant, Darling and Pakenham, the towns of Almonte and Carleton Place, and the village of Lanark.

LANARK, SOUTH : The townships of Montague, Elmsley North, Burgess North, Sherbrooke South, Beckwith, Drummond, Bathurst, and the towns of Perth and Smith's Falls.

LEEDS AND GRENVILLE, NORTH : The Townships of Kitley, Elmsley South, Wolford, Oxford and South Gower, and the villages of Kemptville and Merrickville.

LEEDS, SOUTH : The townships of Front of Escott, Front of Leeds and Lansdowne, rear of Leeds and Lansdowne, South Crosby, North Crosby, Bastard and South Burgess, the town of Gananoque and the village of Newboro'.

LENNOX : The townships of Richmond, Adolphustown, North Fredericksburg, South Fredericksburg, Ernestown and Amherst Island, the town of Napanee, and the Village of Bath.

LINCOLN : The townships of Clinton, Grantham, Grimsby South, Grimsby North, and Louth, the city of St. Catharines, and the villages of Grimsby, Merriton, Beamsville, and Port Dalhousie.

LONDON : The city of London.

MANITOULIN : The islands as follows, Great Manitoulin, Cockburn, Barrie, Fitzwilliam, Lonely, Club, Wall, Rabbitt; all islands lying between these islands, between headlands on these islands, and all lying south of Manitoulin Island.

MIDDLESEX, NORTH : The townships of McGillivray, Biddulph, Williams East, Williams West, Adelaide and Lobo, the town of Parkhill and the Villages of Ailsa Craig and Lucan.

MIDDLESEX, EAST : The townships of West Nissouri, North Dorchester, Westminster and London, and the village of London West.

MIDDLESEX, WEST : The townships of Delaware, Caradoc, Metcalf, Mosa and Ekfrid, the town of Strathroy and the villages of Glencoe, Newbury and Wardsville.

MONCK : The townships of Canborough, Moulton, Sherbrooke, Caistor, Gainsborough, Pelham and Wainfleet, and the village of Dunnville.

MUSKOKA, NORTH : The townships of Cardwell, Stisted, Chaffey, Sinclair, Watt, Stephenson, Brunel and Franklin, and the village of Huntsville.

MUSKOKA, SOUTH : The townships of Freeman, Gibson, Baxter, Medora, Wood, Monck, Muskoka, Morrison, Macaulay, Draper, Ryde, McLean, Oakley and Ridout, and the towns of Bracebridge and Gravenhurst.

NIAGARA : Town and township of Niagara.

NIPISSING, EAST : That portion of the electoral district of Nipissing comprising the townships of Cameron, Boyd, Papineau, Calvin, Bonfield, Ferris, Chisholm, Boulter and Lauder, and the townships in the said district lying to the north of the River Mattawa and to the east of the easterly boundary line of the townships of Widdifield, Mulock, Lockhart and Garrow, and the said boundary line continued north to the Ottawa River.

NIPISSING, WEST : That portion of the electoral district of Nipissing lying to the west of the easterly boundary line of the townships of Widdifield, Mulock, Lockhart and Garrow, and the said boundary line continued north to the Ottawa River in the district of Nipissing East.

NORFOLK, NORTH : The townships of Middleton, Townsend and Windham, the town of Simcoe and the villages of Waterford and Delhi.

NORFOLK, SOUTH : The townships of Charlotteville, Houghton, Walsingham and Woodhouse, with the Gore thereof, and the villages of Port Dover and Port Rowan.

NORTHUMBERLAND, EAST : The townships of Cramahe, Brighton, Murray, Seymour and Percy, and the villages of Brighton, Campbellford, Colborne and Hastings.

NORTHUMBERLAND, WEST : The townships of Hamilton, Haldimand, Alnwick, and the town of Cobourg.

ONTARIO, NORTH : The townships of Reach, Uxbridge, Brock, Scott, Thorah, Mara, Rama and Scugog, the town of Uxbridge, and the villages of Port Perry, Cannington and Beaverton.

ONTARIO, SOUTH : The townships of Whitby, East Whitby and Pickering, and the towns of Whitby and Oshawa.

OTTAWA : The city of Ottawa.

OXFORD, NORTH : The townships of East Nissouri, East Zorra, West Zorra, Blandford, Blenheim, the town of Woodstock, and the village of Embro.

OXFORD, SOUTH : The townships of North Oxford, West Oxford, East Oxford, North Norwich, South Norwich and Dereham, the towns of Ingersoll and Tilsonburg, and the village of Norwich.

PARRY SOUND, EAST : That portion of the electoral district of Parry Sound, lying to the east of the westerly boundary lines of the townships of McMurrich, Ryerson, Chapman, Lount, Pringle and Patterson.

PARRY SOUND, WEST : That portion of the electoral district of Parry Sound, not included as above in the district of Parry Sound, East.

PEEL : The townships of Chinguacousy, Toronto and the Gore of Toronto, the town of Brampton, and the village of Streetsville.

PERTH, NORTH : The townships of Elma, Logan, Ellice, Mornington, and North Easthope, the city of Stratford, the town of Listowel and the village of Milverton, and also that portion of the township of Wallace included in Concessions I, II, III, IV and V, which together with the town of Listowel shall be considered as a township for the purposes of this Act.

PERTH, SOUTH : The townships of Blanshard, Downie, South Easthope, Fullarton and Hibbert, and the towns of Mitchell and St. Marys.

- PETERBOROUGH, EAST :** The townships of Otonabee, Douro, Asphodel, Dummer, Belmont, Methuen, Burleigh, Anstruther and Chandos, and the villages of Ashburnham, Havelock, and Norwood.
- PETERBOROUGH, WEST :** The townships of South Monaghan, North Monaghan, Smith, Ennismore, Harvey, Galway and Cavendish, the town of Peterborough, and the village of Lakefield.
- PRESCOTT :** The townships of Alfred, Caledonia, Hawkesbury East, Hawkesbury West, Longueuil, Plantagenet North, and Plantagenet South, and the villages of Hawkesbury and L'Orignal.
- PRINCE EDWARD :** The townships of Ameliasburgh, Athel, Hallowell, Hillier, Marysburgh North, Marysburgh South, and Sophiasburgh, the town of Picton and the village of Wellington.
- RENFREW, NORTH :** The townships of Ross, Bromley, Westmeath, Stafford, Pembroke, Wilberforce, Alice, Petewawa, Buchanan, South Algona, North Algona, Fraser, McKay, Wylie, Rolph, Head, Maria, Clara, Master, Stratton, Bronson, Edgar, Barron, Guthrie, Clancey, Niven, White, Fitzgerald, and the town of Pembroke.
- RENFREW, SOUTH :** The townships of McNab, Bagot, Blithfield, Brougham, Horton, Admaston, Grattan, Matawatchan, Griffith, Lyndoch, Raglan, Radcliffe, Brudenell, Sebastopol, Hagarty, Richards, Sherwood, Burns, and Jones, the towns of Arnprior and Renfrew, and the village of Eganville.
- RUSSELL :** The townships of Cambridge, Clarence, Cumberland, Gloucester, Osgoode and Russell, and the villages of Rockland and Casselman.
- SIMCOE, EAST :** The townships of Tiny, Tay, Orillia, Matchedash, Medonte and Oro, the towns of Orillia, Penetanguishene and Midland.
- SIMCOE, WEST :** The townships of Vespra, Flos, Sunnidale, and Nottawasaga, the towns of Barrie, Collingwood and Stayner, and the village of Creemore.
- SIMCOE, SOUTH :** The townships of Tosorontio, Essa, Innisfil, and West Gwillimbury, the town of Alliston and the village of Bradford.
- STORMONT :** The townships of Finch, Osnabruck, and Roxborough.
- TORONTO :** The city of Toronto.
- VICTORIA, NORTH :** The townships of Eldon, Carden, Dalton, Fenelon, Bexley, Laxton, Digby, Longford and Somerville ; and the provisional county of Haliburton, and the villages of Fenelon Falls and Woodville.
- VICTORIA, SOUTH :** The townships of Ops, Mariposa, Emily and Verulam, the town of Lindsay, and the villages of Bobcaygeon and Omemee.
- WATERLOO, NORTH :** The northerly portion, hereinafter described, of the township of Waterloo, the townships of Woolwich and Wellesley, and the towns of Berlin and Waterloo, and the village of Elmira.
- WATERLOO, SOUTH :** The southerly portion of the said township of Waterloo, the townships of North Dumfries and Wilmot, the town of Galt, and the villages of Ayr, Hespeler, New Hamburg and Preston.

The said northerly portion of the township of Waterloo shall consist of that part of the said township lying within the following limits, that is to say : Commencing at the south-west angle of lot number forty-six in the said township ; thence easterly along the southerly limits of the said lot, and of the lots numbers forty-seven, forty eight, fifty, fifty-one and fifty-three, and the prolongation thereof, to the middle of the Grand River ; thence along the middle of the said river, against the stream, to the prolongation of the limit between lots numbers one hundred and thirteen and one hundred and fourteen, and along the prolongation of the limit between the said lots numbers one hundred and thirteen and one hundred and fourteen and along the limit between the said lots one hundred and thirteen and one hundred and fourteen, northerly and easterly, to the westerly limit of lot one hundred and seven ; thence along the westerly limit of the said lot number one hundred and seven northerly to the northerly limit thereof ; thence along the northerly limits of the said lot number one hundred and seven and of lots numbers one hundred and six, eighty-four and ninety-six easterly to the easterly boundary of the said township ; thence along the easterly, northerly and westerly boundaries of the said township in a northerly, westerly and southerly direction, respectively, to the place of beginning ; and the said southerly portion of the said township of Waterloo shall consist of all the remaining part of the said township.

WELLAND : The townships of Bertie, Crowland, Humberstone, Stamford, Thorold, Willoughby, the towns of Niagara Falls, Thorold and Welland, and the villages of Chippewa, Fort Erie, Niagara Falls, and Port Colborne.

WELLINGTON, SOUTH : The townships of Guelph, Puslinch and Eramosa, and the city of Guelph.

WELLINGTON, CENTRE : The townships of Pilkington, Nichol, Erin, West Garafraxa, West Luther and the villages of Fergus, Erin and Elora.

WELLINGTON, WEST : The townships of Arthur, Minto, Maryborough and Peel, the towns of Mount Forest and Harriston, and the villages of Arthur, Clifford and Drayton, and also that portion of the township of Wallace included in Concessions VI, VII, VIII, IX, X, XI, XII and XIII, which together with the town of Palmerston shall be considered as a township for the purposes of this Act.

WENTWORTH, NORTH : The townships of Beverley, Flamborough West, Flamborough East, the town of Dundas, and the village of Waterdown.

WENTWORTH, SOUTH : The townships of Saltfleet, Binbrook, Glanford, Barton and Ancaster.

YORK, EAST : The townships of Markham and Scarborough, that portion of the township of York lying east of Yonge street, the town of North Toronto, and the villages of Markham and East Toronto, and that part of the village of Stouffville which formerly formed part of the township of Markham.

YORK, WEST : The townships of Etobicoke and Vaughan, that portion of the township of York lying west of Yonge street, the town of Toronto Junction, and the villages of Richmond Hill, Weston and Woodbridge.

YORK, NORTH : The townships of King, Whitchurch, Georgina, East Gwillimbury and North Gwillimbury, the towns of Newmarket and Aurora, and the villages of Sutton, Holland Landing, and that part of the village of Stouffville which formerly formed part of the township of Whitchurch.

NOTE.—The townships hereinbefore mentioned include all towns and incorporated villages situated within the limits thereof respectively which are not named as included in another district.

58 V. c. 11, Schedule B ; 59 V. c. 14, s. 11 ; 60 V. c. 11, s. 5.

SCHEDULE C.

(Section 7.)

DECLARATION OF ASSOCIATION.

We, whose names are subscribed hereto, agree to form ourselves into a society, under the provisions of *The Agricultural and Arts Act*, to be called the district (or township), agricultural (or horticultural) society of the district (or township, or city, or town, or incorporated village) of ^{no. 700} ; and we hereby severally agree to pay to the treasurer the sums opposite our respective names ; and we further agree to conform to the by-laws and rules of the said society.

Names.	¢	cts.

58 V. c. 11, Schedule C.

SCHEDULE D.

(Section 19.)

AFFIDAVIT AS TO SUBSCRIPTIONS TO DISTRICT, TOWNSHIP OR HORTICULTURAL SOCIETY.

County of _____,)
To wit: (

I, A. B., of the township of
cultural (or Horticultural) Society of the
make oath and say :—

, Treasurer of the Agri-
of

That the sum of _____ has been paid into my hands, as and for the members' subscriptions for this year, in accordance with the list herewith sent to the Minister of Agriculture.

That the said sum is now in my hands, or has already been disposed of according to law.

That the number of the members of the said Society is _____

Sworn before me this _____
day of _____, A.D. 18 ____
C. D.,
Justice of the Peace for the County of _____

}
A. B.

58 V. c. 11, Schedule D.

SCHEDULE E.

(Section 44.)

SECURITY OF TREASURER.

Know all men by these presents that we, A. B., treasurer of the _____ society (or association) of the _____ of _____, in the county of _____, Esquire, and C. D., of the _____ of _____, in the county of _____, Gentleman (if more than one surety is required insert here the names of the others in like manner), do hereby jointly and severally, for ourselves and for each of our heirs, executors and administrators, covenant and promise that the said A. B., as treasurer of the _____ society (or association), shall well and truly account for and pay over to the _____ society (or association), or the person or persons entitled to the same, all moneys which he shall receive by virtue of his said office of treasurer, and that he will faithfully perform the duties of his said office.

Nevertheless it is hereby declared that no greater sum shall be recovered under this covenant against the several parties hereto than as follows: that is to say, against the said A. B., in the whole \$ _____ (the amount fixed by the board of directors) against the said C. D., \$ _____ (the amount fixed by the board of directors and if more sureties were required by the board, here add the names and amounts in like manner.)

In witness whereof we have set our hands and seals to these presents this _____ day of _____, A.D. 18 ____

A. B. [L. s.]

C. D. [L. s.]

Signed, sealed and delivered }
in the presence of }
E. F. }

58 V. c. 11, Schedule E.

6. STATISTICS.

CHAPTER 44.

An Act respecting the Registration of Births, Marriages and Deaths.

INTERPRETATION, s. 1.
OFFICE AND DUTIES OF REGISTRAR—
GENERAL—
Who to act as, s. 2.
Inspector, s. 3.
Keeping returns, s. 4.
Annual statistical report, s. 5.
Regulations, s. 6.
Searches and certificate, s. 7.
Forms to be prepared, s. 8.
REGISTRATION DIVISIONS—
Municipalities to be, s. 9.
In unorganized territory, s. 10.
DIVISION REGISTRARS—
Municipal clerks to be and duties of, ss. 11-13.
Correction of errors, s. 14.
REGISTRATION OF BIRTHS, ss. 15-19.

REGISTRATION OF MARRIAGES, ss. 20, 21.
REGISTRATION OF DEATHS—
Who to notify, ss. 22, 23.
No removal for burial before, s. 24.
Cemetery officials, s. 25.
When two years have expired, s. 26.
PENALTIES, ss. 27-30.
INSPECTOR TO INSTITUTE PROCEEDINGS, s. 31.
WHO MAY TRY OFFENDERS, s. 32.
WHO ENTITLED TO PENALTIES, s. 33.
EXPENSES OF PROSECUTIONS, s. 34.
FEES, ss. 7, 35-37.
COUNTY RECORDS OF MARRIAGES, s. 33.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The term “occupier” where used in this Act shall be construed to include the Master, Governor, Keeper, Warden or Superintendent of a gaol, prison, penitentiary, lunatic asylum, poor asylum, hospital, industrial home, house of refuge, or other public or private charitable institution. 59 V. c. 17, s. 1

“Occupier,” meaning of.

OFFICE AND DUTIES OF THE REGISTRAR-GENERAL.

2. For the purposes of this Act the Registrar-General of the Province shall be that member of the Executive Council whose Department for the time being is charged with the administration of this Act. 59 V. c. 17, s. 2.

Registrar-General.

Inspector,
appointment
and duties of.

3. The Lieutenant-Governor in Council may appoint an Inspector, whose duty shall be to inspect the different Registration Offices throughout the Province, and carefully examine the different Schedules to see that the entries and registrations are made and completed in a proper manner and in legible handwriting. The Inspector shall institute prosecutions for violations of this Act, whenever so instructed by the Registrar-General. 59 V. c. 17, s. 3.

Keeping and
arranging
returns.

4. The Registrar-General shall cause copies, certified by the Division Registrar, of the original returns of the births, marriages and deaths in each Division, together with all the particulars communicated to him by the Division Registrars, to be arranged, indexed, bound and kept in the office of the Registrar-General. 59 V. c. 17, s. 4.

Annual report
of Registrar-
General.

5. The Registrar-General shall annually collate, publish and distribute for the use of the Legislature, a full report of the births, marriages and deaths of each preceding year, giving such details, statistics and information as the Lieutenant-Governor in Council may think necessary. 59 V. c. 17, s. 5.

Lieutenant-
Governor to
make regula-
tions.

6. The Lieutenant-Governor in Council may from time to time make such rules, orders and regulations as may be required for the purpose of effectually obtaining the information required by this Act. 59 V. c. 17, s. 6.

Searching
records.

7.—(1) Any person shall be entitled at all reasonable hours on payment of a fee of twenty-five cents, and on signing the form of application prescribed by the Registrar-General, to have search made of the records of births, marriages and deaths kept in the office of the Registrar-General.

Certificate of
Registrar-
General.

(2) The Registrar-General shall, when requested, issue a certificate regarding the details of any birth, marriage or death, a record of which is in his hands on payment of seventy-five cents, which amount shall include the cost of any search relating to the same. Every such certificate shall be *prima facie* evidence in any Court in the Province of the facts stated therein. 60 V. c. 12, s. 1.

Forms.

8. The Registrar-General shall cause such Schedules or Forms to be prepared from time to time as may be approved by the Lieutenant-Governor in Council in order to the procurement of correct statistical information, and he shall distribute the same to the several Division Registrars, and the costs and expenses of such Forms, and the expenses attendant upon the distribution thereof shall be paid out of the Consolidated Revenue Fund of the Province. 59 V. c. 17, s. 8.

REGISTRATION DIVISIONS.

9. All territory within the limits of the Province of Ontario, shall, for the purpose of this Act, be a part of some Registration Division; every City, Town, Incorporated Village, Township or Union of Townships, shall be a Registration Division, and any territory not by this Act already included in some Registration Division may by the Lieutenant-Governor in Council be attached to some existing Registration Division, or be set apart as a new Registration Division. 59 V. c. 17, s. 9.

Registration divisions.

10. Where any such Registration Division is not within any organized municipality, the Lieutenant-Governor in Council may appoint a Division Registrar for the same, and may make such rules and regulations as may be necessary to secure a correct record of the births, marriages and deaths occurring therein until the territory comprising the Registration Division, or some part thereof, either with or without other territory, becomes a municipality. 59 V. c. 17, s. 10.

Registrars in unorganized territory.

OFFICE AND DUTIES OF DIVISION REGISTRARS.

11.—(1) The Clerk of every municipality, other than a county, shall be the Division Registrar of the same.

Division registrars.

(2) Every Division Registrar shall receive the forms sent by the Registrar-General, and keep the same in a place of safety; he shall use all available means to obtain the necessary information as hereinafter required in this Act, and shall make entry thereof on said forms, and he shall on or before the 15th days of January and July in each and every year make his returns for the preceding half year to the Registrar-General. The forms received and prepared by the Division Registrar, containing the information required by this Act, shall be preserved by him for at least one year, and the information therein contained shall be transferred to Schedules or Forms certified under his hand for transmission to the Registrar-General.

Duties of division registrars.

(3) The original returns shall be entered and indexed in a book kept by the Division Registrar for the purpose, the said book to be supplied at the cost of the municipality and to be prepared according to the form prepared by the Registrar-General.

Returns to be entered and indexed.

(4) Every Division Registrar shall further be required to make a return on or before the fifth day of every month, on one of the post cards prepared and supplied by the Registrar-General for the purpose, stating whether or not any deaths have occurred in the municipality from contagious disease during the preceding month and if any such deaths have occurred the said Registrar shall in such return give such particulars in respect of such deaths as are required by the form upon the said post card. 59 V. c. 17, s. 11; 60 V. c. 3, s. 3; c. 12, s. 2.

Monthly returns of contagious diseases.

Certificate of death.

12. Every Division Registrar shall, immediately upon registering any death, deliver without fee or reward, to any person requiring the same for the purpose of burial, a certificate according to the form prepared by the Registrar-General, that the particulars of such death have been duly registered. 59 V. c. 17, s. 12.

Inquiry by registrar when proper registration not made.

13. In case any Division Registrar has reason to know or to believe that any birth, marriage or death has taken place within his Registration Division, which the person whose duty it was to register has neglected to register, it shall be the duty of the Division Registrar to make diligent enquiry into the facts, and if thereupon he shall have reason to know or suspect that such birth, marriage or death has taken place he shall notify the proper person of his duty to register the same. Upon failure of such person to make the required registration, the Division Registrar shall forthwith supply the Inspector of Vital Statistics for the Province with such information as he possesses in regard to the matter. 59 V. c. 17, s. 13.

Correcting errors in registration.

14. If within one year from the registration of any birth, marriage or death with the Division Registrar, any of the particulars of such birth, marriage or death are found to be omitted or incorrect then upon the error being reported to the proper Division Registrar within the time aforesaid it shall be his duty to enquire into the same, and if satisfied that the entry is incorrect to correct the error according to the truth of the case, entering the correction in the margin, without any alteration of the original entry. If the Schedule containing a copy of the original entry of such birth, marriage or death has been returned to the Registrar-General the Division Registrar shall report the omission or other error to the Registrar-General, whose duty it shall be to correct the error in the margin of the Schedule as well as in the indexed record thereof, without altering the original entry. 59 V. c. 17, s. 14; 60 V. c. 12, s. 3.

REGISTRATION OF BIRTHS.

Notice of birth to be given.

15. The father of any child born in this Province, or in case of his death or absence, the mother, or in case of the death or inability of both parents, any person standing in the place of the parents, or if there is no such person, then the occupier of the house or tenement in which to his knowledge the child was born, or the nurse or midwife present at the birth, shall within thirty days from the date of the birth, give notice thereof to the Division Registrar of the Division in which the child was born giving as far as possible the particulars required in the form supplied under this Act, with such additional information as may from time to time be required by the Registrar-General. 59 V. c. 17, s. 15; 60 V. c. 12, s. 4.

16. It shall be the duty of every qualified medical practitioner attending at the birth of any child born within this Province to give notice thereof forthwith to the Division Registrar of the Division in which the child was born giving as far as possible the particulars required in the form provided by the Registrar-General, with such additional information as may from time to time be required by the Registrar-General, on forms to be supplied through the Division Registrar. 59 V. c. 17, s. 16.

Medical practitioner attending birth to register same.

17. In registering the birth of an illegitimate child, it shall not be lawful for the name of any person to be entered as the father unless at the joint request of the mother and of the person acknowledging himself to be the father; and in all cases of the registration of the birth of illegitimate children the Division Registrar shall write the word "Illegitimate" in the column set apart for the name of the child, and immediately under the name, if any. 59 V. c. 17, s. 17.

Registering illegitimate births.

18. In case any birth has not been registered within thirty days after the same has occurred, a Division Registrar may still register the same within one year after the birth has occurred; but if the neglect has continued for a longer period, the birth shall not be registered except with the written authority of the Registrar-General, and the fact of such authority having been given shall be entered in the column set aside for remarks in the form specially supplied for this purpose. The authority of the Registrar-General shall not, however, extend to the registration of any birth if over ten years have elapsed since such birth took place. 59 V. c. 17, s. 18.

Registration of birth after expiration of appointed time.

19. Where the birth of any child has been registered, and the name, if any, by which it was registered, has been altered, or if it was registered without a name when a name is given to it, the parent or guardian of the child or other person procuring the name to be altered or given, may within ten years next after the registration of the birth, deliver to the Registrar-General a certificate signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or if the child is not baptized, signed by the father, mother or guardian of the child, or other person procuring the name of the child to be given or altered, and the Registrar-General shall upon the receipt of the certificate make the necessary alteration in the margin of the Schedule containing the original entry, without making any alteration in the entry, and shall also make the same changes in the Index recording such birth. 59 V. c. 17, s. 19.

Altering or inserting name after registration.

REGISTRATION OF MARRIAGES.

20. Every clergyman, minister or other person authorized by law to celebrate marriages, shall report every marriage he

Particulars of marriages to be furnished to registrars.

celebrates to the Division Registrar of the Division within which the marriage is celebrated, within thirty days from the date of the marriage, with the particulars required in the form supplied under this Act, and in order to better enable the clergyman, minister or other person to make the report as aforesaid, he shall be furnished by the Division Registrar of the Division in which he resides with blank forms containing the particulars required under this Act. 59 V. c. 17, s. 20.

Registration
of unregist-
ered marriages

21. Where any marriage solemnized in Ontario has not been registered as required by the preceding section, the Registrar General may cause the same to be registered at any time before the expiration of ten years from the solemnization thereof, but not afterwards. 60 V. c. 12, s. 5.

REGISTRATION OF DEATHS.

Particulars as
to deaths to
be furnished
to registrars.

22. The occupier of a house or tenement in which a death takes place, or, if the occupier be the person who has died, then some one of the persons residing in the house in which the death took place, or if the death has not taken place within a house, then any person present at the death or having any knowledge of the circumstances attending the same, or the coroner who attended any inquest held on such person, shall before the interment of the body supply to the Division Registrar of the Division in which the death took place, according to his or her knowledge or belief, all the particulars required to be registered touching such death, in the form provided under this Act. 59 V. c. 17, s. 21.

Medical prac-
titioners to
certify as to
deaths,

23. Every duly qualified medical practitioner, who was last in attendance during the last illness of any person, shall forthwith on notice of the death of such person, send to the Medical Health Officer of the municipality, in all Cities, Towns and Villages for inspection and subsequent transmission to the Division Registrar, or in case there is no Medical Health Officer and a death occurs in a township from a non-contagious disease, then direct to the Division Registrar of the Division in which the death took place, a certificate under his signature of the cause of death, according to the form prepared by the Registrar-General, to be provided by the Division Registrar, who shall be furnished with such forms, and who shall supply them to the qualified medical practitioners resident within his Division. 59 V. c. 17, s. 22; 60 V. c. 12, s. 6.

Bodies not to
be removed
for burial
until after
registration.

24.—(1) No removal for burial of the dead body of any person shall take place, and no undertaker, clergyman, sexton, householder or other person shall engage in the burial of the dead body of any person unless a certificate of registration has been previously obtained to the knowledge of the person so removing or engaging in the burial of the dead body.

(2) Where a death has occurred in any township, a certificate of registration from the nearest Division Registrar shall be sufficient; provided that where death from a contagious disease has occurred the return shall, prior to registration by the Division Registrar, be endorsed by the Medical Health Officer (if any), but such Division Registrar shall forward the original certificate to the Registrar of the Division in which the death occurred.

(3) Where the death has taken place out of the Province of Ontario, or in a municipality other than that in which the death is to be registered, a certificate signed by the Registrar or other proper officer of the municipality or place in which the death took place shall be sufficient for burial, and the Division Registrar of the municipality in which the burial takes place shall, when requested, register the death, and in such case shall note the facts and shall where the death occurred within the province state the fact of the prior registration in the column for remarks in the register and Schedule. 60 V. c. 12, s. 7.

25. No caretaker or owner of any cemetery or burial ground, whether public or private, nor any clergyman having charge of a church to which a burial ground is attached, shall permit the interment of the dead body of any person in the burial grounds over which he has charge, unless he has received a certificate under the hand of the Division Registrar of the Division in which the death took place, that the particulars of the death have been duly registered. Every such caretaker, owner and clergyman shall on or before the last day of June and of December in each year transmit to the Division Registrar of the Division in which the burial ground is situate, a list of the number of burials therein during the previous half year, giving the names of the persons whose bodies are therein buried and the dates on which the interments took place. 59 V. c. 17, s. 24.

Duties of persons in charge of cemeteries.

26. After the expiration of two years next after any death, or where the dead body of any person is found elsewhere than in a house, unless a certificate has been given by a coroner, the death shall not be registered except with the written authority of the Registrar-General, and the fact of such authority being given shall be entered in the Schedule provided for the registration of deaths. 59 V. c. 17, s. 25; 60 V. c. 12, s. 8.

When deaths not to be registered without authority of Registrar-General.

PENALTIES AND EXPENSES.

27. In case any Division Registrar neglects or refuses to make returns as required by this Act, he shall be notified by registered letter of such neglect by the Registrar-General, and if after notification, he shall fail to make such return within one month, it shall be competent for the Registrar-General to

Penalty for registrar's refusal or neglect to make returns.

refuse to issue the certificate for the payment of the fees due to the Division Registrar so in default by the municipality for which the return is made, even though the return should be made at a later date, and such Division Registrar shall upon conviction before any Stipendiary or Police Magistrate or Justice of the Peace, forfeit the sum of \$50 to Her Majesty. Such suit shall be conducted by the County Crown Attorney when instructed by the Registrar-General, and the costs of the prosecution shall be borne by the municipality whose Division Registrar is in default. 59 V. c. 17, s. 26.

Penalty for making false statements.

28. Any person who knowingly or wilfully makes or causes to be made, a false statement touching any of the particulars required to be reported and entered under this Act, shall, upon conviction thereof before any Stipendiary or Police Magistrate or Justice of the Peace, forfeit the sum of \$50; and any physician making a false statement as to the cause of death of any person shall be subject to discipline by the Ontario Medical Council. 59 V. c. 17, s. 27.

Penalty for not reporting

29. Any person required by this Act to report births, marriages, deaths or burials to the Division Registrar who refuses or neglects to do so within the time required, shall, on summary conviction therefor, be liable for every such offence to a penalty not exceeding \$10 and costs, but if a return required by this Act to be made by more than one person, is made by any one of such persons, the other of such persons shall not be liable to any such penalty in respect of his default, and every such prosecution shall be commenced within two years after the time allowed for reporting a birth, marriage, death, or burial. 60 V. c. 12, s. 9, part.

Penalty for other acts or omissions.

30. Any person guilty of any act or omission in violation of any of the provisions of this Act, for which no other penalty is provided, shall be liable on summary conviction therefor to a penalty of not more than \$20 and costs. 60 V. c. 12, s. 9, part.

Inspector to investigate upon notification.

31 It shall be the duty of the Inspector of Vital Statistics of this Province, upon being notified of any violation of this Act, to make investigation, and where necessary, to institute proceedings against any person guilty of any such offence. 60 V. c. 12, s. 9, part.

Enforcing penalties.

32. Any Stipendiary or Police Magistrate or any Justice of the Peace having jurisdiction within the locality where any offence against this Act has been committed may hear and determine the complaint, and shall have power, in case the penalty and costs awarded by him are not forthwith paid upon conviction, to levy the same by distress and sale of the goods and chattels of the offender by warrant under his hand and seal; and in default of payment or of sufficient distress, the offender may, by warrant signed and sealed as aforesaid,

be imprisoned in the common goal for a period not less than one day nor more than twenty days, at the discretion of the Justice, unless the penalty, costs and charges of commitment are sooner paid. 59 V. c. 17, s. 29.

33. The penalties mentioned in this Act shall be payable, one moiety to the informant, and one moiety to the municipality. Penalties distribution of.
59 V. c. 17, s. 31 (2).

34. All expenses incurred in prosecutions under this Act, in all cases, whether or not a conviction is obtained, shall be payable out of the funds of the municipality to which a moiety of the fines is payable. Expenses of prosecution.
59 V. c. 17, s. 31 (3).

FEES.

35. All fees received by the Registrar-General shall be placed to the credit of the Registrar-General's Department in the books of the Treasurer of Ontario. Fees how credited.
59 V. c. 17, s. 30.

36.—(1) Every municipality in the Province of Ontario shall pay annually to the Division Registrar appointed therefor under this Act a fee of twenty cents for each complete registration of a birth, marriage or death returned according to the schedules provided under this Act, on the presentation of the certificate of the Registrar-General to the Treasurer of the municipality; but a city or town containing more than ten thousand inhabitants may limit the aggregate compensation allowed to the Division Registrar. No certificate for the payment of these fees shall be issued by the Registrar-General until he is satisfied that every return has been made as complete as under the circumstances may be possible. Fees of division registrars.
59 V. c. 17, s. 31 (1).

(2) Fees shall be paid at the rates set forth in this section to every Division Registrar appointed by the Lieutenant-Governor in Council for any Registration Division, and not included within any municipality, out of moneys voted by the Legislature for this purpose. Fees of registrars in un-organized territory.
59 V. c. 17, s. 32.

COUNTY RECORDS.

37. The county records of marriages prepared under the Act passed by the Legislature of the late Province of Canada, in the 20th year of Her Majesty's reign, chaptered 66, and under chapter 72 of the Consolidated Statutes of Upper Canada, 1859, or any other Statute of the late Province of Canada or of this Province and now preserved in the county registry offices, shall on request be delivered to the Registrar-General, and shall with those already so delivered be kept for preservation and reference among the records in the office of the Registrar-General. Former records of marriages to be transferred.
60 V. c. 12, s. 10.

SECTION VI.

PUBLIC PARKS.

CHAPTER 45.

An Act respecting The Queen Victoria Niagara Falls Park.

SHORT TITLE, s. 1.

COMMISSIONERS, s. 2.

LIMITS OF PARK, ss. 3, 4.

FORESHORE AND BED OF RIVER,
s. 5.

ST. CATHARINES, THOROLD AND NIA-
GARA FALLS ROAD CO., s. 6.

STREET RAILWAY, s. 7.

RIGHTS OF EXPROPRIATION, ss. 8-10.

DEBENTURES, s. 11.

POWERS OF COMMISSIONERS—AS TO
CONSTRUCTION AND AS TO TOLLS,
ss. 12, 13.

PARK TO BE OPEN, s. 14.

BY-LAWS, OFFICERS, ETC., s. 15.

APPLICATION OF REVENUE, ss. 16, 17.

ANNUAL REPORT, s. 18.

ELECTRIC RAILWAY, ss. 19-21.

CLIFTON, SUSPENSION AND OTHER
BRIDGE COMPANIES, ss. 22, 23.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Queen Victoria Niagara Falls Park Act.*" 50 V. c. 13, s. 1, part.

Board of Com-
missioners.

2.—(1) There shall continue to be a Board of Commissioners composed of such persons, not less than five, as the Lieutenant-Governor in Council from time to time appoints, and the said board shall be a corporation by the name of "The Commissioners for the Queen Victoria Niagara Falls Park," the members whereof shall hold their respective offices as members of the said board during the pleasure of the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may, upon the death of any such persons respectively, or on their resignation or removal from office, and from time to time thereafter, appoint other persons to fill their places during pleasure, as aforesaid. 48 V. c. 21, s. 3; 50 V. c. 13, s. 2 (1).

(2) The Commissioners shall receive no compensation except their actual disbursements in performing their duties. 50 V. c. 13, s. 2 (2).

3.—(1) The lands in the vicinity of Niagara Falls selected by the Commissioners and approved by the Lieutenant-Governor in Council, whereof the boundaries as surveyed upon the ground are shown by a red verge line marked upon a map, whereof copies duly certified and authenticated are filed and deposited in the office of the Registrar of the County of Welland and in the office of the Commissioner of Crown Lands; Excepting thereout the strip of land, lying between Range No. 6, as laid down in the plan of the city of the Falls, in the township of Stamford, on the north, and by Street's Mill Road and the lands held by the Carmelite Monastery on the south, the easterly boundary whereof is at a distance of 130 feet east of the centre line of the Canada Southern Railway, and the westerly boundary whereof is the westerly line of the park as marked upon the said map shall constitute "The Queen Victoria Niagara Falls Park" and shall be vested in the said corporation as trustees for the Province.

Boundaries of
Park.

(2) Until the municipal corporation otherwise by by-law, subject to section 632 of *The Municipal Act* enacts, Robinson and Murray streets shall be public entrances to the park for visitors by carriages, or on horses, or on foot. 50 V. c. 13, s. 3 (1) and part (4).

Rev. Stat.
c. 223.

4. The lands lying along the bank of the Niagara river, and not included in the original survey of lots laid out in the townships of Stamford and Niagara, which have by order of the Lieutenant-Governor in Council been vested in the Commissioners to be held for the purposes of the said park, and commonly known as "The Chain Reservation," shall form part of the park and be subject to the control of the Commissioners like other lands within the boundaries of the park. 50 V. c. 13, s. 5, and Order-in-Council dated 15th July, 1887.

Lands along
river bank.

5. The Lieutenant-Governor in Council may also at any time or from time to time, by Order-in-Council, vest in the Commissioners, to be held for the purposes of the park and subject to any conditions which may be imposed by the Order in Council, any portions of the foreshores or bed of the river Niagara or lands covered with water in the said river Niagara, which lie in front of the lands vested in the Commissioners by section 3 of *The Queen Victoria Niagara Falls Park Act, 1887*, and which at the time of the Order in Council may be the property of Ontario, and the foreshores, bed of the river and lands so vested shall thenceforth form part of the park and be subject to the control of the Commissioners like other park lands. 57 V. c. 13 s. 5.

Foreshores
and part of
bed of Niagara
river may be
vested in Com-
missioners.

50 V. c. 13.

6.—(1) The rights, title, possession and franchises which were held and exercised by the St. Catharines, Thorold, and Niagara Falls Road Company, or by the person or persons having the title, interest and possessory rights thereof in respect of that portion of the St. Catharines, Thorold, and

Rights of pro-
prietors of
road vested
in commis-
sioners.

Niagara Falls Road, between the Table Rock and Niagara Falls Suspension Bridge on lot 92 of Stamford are also vested in the Commissioners. 50 V. c. 13, s. 4, part; 51 V. c. 7, s. 2, part.

(2) All rights to take and collect tolls, as well as the public rights in the portion of the St. Catharines, Thorold, and Niagara Falls Road, within the limits of the park, as shown upon the said plan, are extinguished. 50 V. c. 13, s. 4 (7), part.

Commissioners may construct street railway.
50 V. c. 13.

7. The Commissioners shall have power to construct and operate a street railway over the said road; and may build the same to any points or lands vested in the Commissioners; and tolls on any such railway may be charged as provided by sections 12 and 13 of this Act. 51 V. c. 7, s. 4.

Powers of expropriation.

8. The commissioners shall have power to expropriate, in accordance with section 10 of this Act the interests of all or any persons in any land lying between the river and the road built on the chain reservation, and vested in the Commissioners under the authority of this Act or other Acts heretofore passed. 51 V. c. 7, s. 5.

Power to acquire lands for approaches, roads, etc.

9. The Commissioners with the consent of the Lieutenant-Governor in Council may take, use or acquire such lands, tenements and rights as they think expedient to be acquired for the purpose of making, forming and completing any new roads, avenues or approaches to the park, but nothing in this section contained shall authorize the Commissioners to take any lands for the purposes aforesaid against the consent of the parties interested therein. 50 V. c. 13, s. 6.

Application of Rev. Stat. c. 37, to proceedings under this Act.

10.—(1) The following sections of the *Act respecting the Public Works of Ontario*, being chapter 37 of the Revised Statutes, shall, as nearly as may be, and unless where inconsistent with this Act, apply to proceedings to acquire the said lands, tenements, rights and interests in the two next preceding sections mentioned, that is to say, sections 25, 26, 27, 28, 29, 31, 32, 33, 34, 35, 36, 40, 41, 42, 43 and 44; and the powers or rights which by the said sections or any of them, are vested in the Commissioner of Public Works or the Crown, are hereby vested in the said Board of Commissioners; and in applying the provisions of the said Act “the Board of Commissioners;” shall be substituted for “the Crown” or “the Commissioner,” where either of the said expressions is used in the said Act. 48 V. c. 21, s. 22; 50 V. c. 13, s. 6.

Appeal.

(2) Any award made by the Provincial Arbitrators under this Act shall be subject to appeal in accordance with the provisions of *The Act respecting Awards under the Niagara Falls Park Act*. 49 V. c. 9, s. 1.

49 V. c. 9.

11.—(1) The debentures, amounting to \$525,000, issued by the Commissioners under the authority of *The Queen Victoria Niagara Falls Park Act, 1887*, and countersigned by the Treasurer of the Province and guaranteed by order of the Lieutenant-Governor in Council, shall, equally and without preference of one over another, be a charge on all the revenues of the corporation, and subject thereto the further issue amounting to \$75,000, subsequently issued by the Commissioners under the authority of *The Act respecting the Queen Victoria Niagara Falls Park*, passed in the fifty-seventh year of Her Majesty's reign, countersigned and guaranteed as aforesaid, shall also equally and without preference of one over another, be a charge on the said revenues.

Issues of debentures authorized.
50 V. c. 13.

57 V. c. 13.

(2) The debentures being so issued and countersigned shall be conclusive of the same having been issued in pursuance of the said Acts, and of the same being guaranteed by the Province of Ontario.

(3) The debentures shall be transferable by delivery, and the coupons for interest annexed thereto shall also pass by delivery. 50 V. c. 13, s. 7 (1-5); 57 V. c. 13, s. 1, part.

12.—(1) Subject to any direction of the Lieutenant-Governor in Council, the Commissioners may construct and operate inclined planes and hydraulic or other lifts, to be worked by any powers; and may build and operate boats or vessels to be used in connection with the park.

Powers of commissioners.

(2) Subject as aforesaid, the Commissioners may pull down all houses and other erections and buildings on lands acquired and purchased by virtue of this Act, or such of them or such part thereof as they shall think proper to be pulled down, and may level and clear the ground whereon the same stand, in such manner as they think proper, and sell or cause to be sold the materials of the houses and other buildings to be taken down and removed; and the moneys to be produced by the sale thereof, after deducting expenses, and also the rents and profits to which they may be entitled meantime, shall be applied for the purposes of this Act.

(3) Subject as aforesaid, the Commissioners shall lay out, plant and enclose the park in such manner as they think fit, and improve and develop the same in accordance with the objects of this Act.

(4) Subject as aforesaid, the Commissioners shall have power to take and collect tolls for the use of constructions, appliances, vessels, or works required to afford facilities to visitors to reach and view the points of interest within the park, and involving the expenditure of money in construction and maintenance, as well as for services to be rendered for the convenience or accommodation of visitors.

(5) Subject as aforesaid, the Commissioners may from time to time make orders and regulations for opening and closing

the gates and entrances of the park or any of them, at such hours as they think fit, but this shall not interfere with, or affect, an agreement which has been heretofore entered into between the Commissioners and the Canada Southern Railway. 50 V. c. 13, s. 8.

Plans, tolls and by-laws subject to approval of Lieutenant-Governor.

13. The plans of all works proposed, and all tariffs of tolls or payments for the use of works, vessels or services, as well as all by-laws, shall require the approval of the Lieutenant-Governor in Council before being acted upon. 50 V. c. 13, s. 9.

Grounds open to public.

14. The park grounds shall be open to the public, subject to any rules and regulations as to management approved by the Lieutenant-Governor in Council. 50 V. c. 13, s. 10.

Power of commissioners as to by-laws.

15.—(1) The Commissioners may make by-laws, to be subject to the approval of the Lieutenant-Governor in Council, for the use, government, control or management of the park, and for the protection and preservation of all works of the same from injury, and of the trees, shrubs, walks, seats, gates, fences and palings, and all other parts thereof, and for the exclusion of improper persons from the same, and may alter or revoke any such by-laws, and shall appoint a penalty, not exceeding \$20, for any breach of a by-law.

Park officers.

(2) The Commissioners may from time to time appoint such officers as may be required for the superintendence and management of the park, and may also appoint park keepers and other officers to preserve order in the park, and may from time to time dismiss any persons so appointed; the appointments or dismissals being subject to the approval of the Lieutenant-Governor; and the salaries of such officers shall be payable out of any funds in the hands of the Commissioners.

Security for moneys.

(3) Any person entrusted by the Commissioners with the custody or control of moneys, by virtue of his employment, shall give security in the manner and form provided by *The Act respecting Public Officers*.

Rev. Stat. c. 16.

Gardeners and workmen.

(4) The Commissioners may from time to time employ gardeners and workmen, as they may deem necessary, and may from time to time dismiss or dispense with the services of such persons, subject to any directions of the Lieutenant-Governor in Council.

(5) The Commissioners shall cause books to be provided and true and regular accounts to be entered therein, of all sums of money received and paid, and of the several purposes for which the same were received and paid; which books shall at all times be open to the inspection of any of the Commissioners, and of the Treasurer of Ontario, and of any person appointed by the Commissioners or Treasurer for that purpose, and of any other person appointed by the Lieutenant-Governor; and the Commissioners and any such person may take copies of or extracts from the said books. 50 V. c. 13, s. 11.

16. The revenue to be received from the sources authorized by this Act shall be applied as follows:— Application of revenue.

1st. To the necessary outgoing expenses of all works necessary to the preservation, improvement, and maintenance of the park, and to the payment of the salaries of the officers and others employed by the Commissioners, and other incidental expenses.

2nd. To the payment half-yearly of the interest payable on the debentures issued by the Commissioners.

3rd. To provide a sinking fund at the rate of one per cent. per annum on the entire amount of the debentures issued as aforesaid. 50 V. c. 13, s. 12.

17.—(1) The annual sums for the sinking fund shall be remitted by the Commissioners to the Treasurer of Ontario by half-yearly payments in such manner as the Lieutenant-Governor in Council from time to time directs, for the investment and accumulation thereof under the direction of the Lieutenant-Governor in Council. Application of sinking fund.

(2) The sinking fund shall be invested in such securities as the Lieutenant-Governor in Council from time to time thinks proper, and shall, whether invested or not, be applied from time to time under the direction of the Lieutenant-Governor in Council in discharging the principal and interest of the debentures. 50 V. c. 13, s. 13.

18.—(1) The Commissioners shall make an annual report for the information of the Legislature, setting forth the receipts and expenditure of the year and such other matters as may appear to them to be of public interest in relation to the park, or as the Lieutenant-Governor in Council may direct. 50 V. c. 13, s. 14. Annual report and accounts.

(2) Sections 24 to 27 of *The Act to provide for the better Auditing of the Public Accounts of the Province*, shall apply to the accounts of the Commissioners in respect of receipts and expenditures. 50 V. c. 13, s. 15. Rev. Stat. c. 23, ss. 24-27 to apply.

19. The Commissioners and The Niagara Falls Park and River Railway Company may enter into an agreement to extend the existing Electric Railway from Chippewa along the bank of the river Niagara southerly to a point on the said river not exceeding two miles from Chippewa. 57 V. c. 13, s. 2. Agreement for extension of electric railway.

20. Such agreement shall provide for the location and mode of construction of the said railway, and may include matters similar to such as are contained in the agreement of the 4th day of December, 1891, between the said parties, and set out in Schedule B of the Act passed in the 55th year of Her Majesty's 55 V. c. 96. Location and mode of construction of extension.

reign, chaptered 96, and may be on such terms and conditions as the Commissioners and the Railway Company agree on. 57 V. c. 13, s. 3.

Approval of
Lieutenant-
Governor in
Council.

21. Such agreement shall have no force or effect without the approval of the Lieutenant-Governor in Council, and on such approval the railway company may exercise in respect of such extension, the powers exercisable by the said railway company in respect of the construction and operation of the electric railway between Queenston and Chippewa under the said last mentioned Act, and in accordance with the limitations therein contained, so far as the same may be consistent with the agreement aforesaid. 57 V. c. 13, s. 4.

Operating
cars across the
Clifton Sus-
pension
Bridge.

22.—(1) The Commissioners may empower the Clifton Suspension Bridge Company to work cars by any power, except steam, to and from their proposed new bridge across the chain reservation, subject to any lawful order of the Railway Commissioners of the Privy Council of Canada in that behalf, and subject to the rights of or an agreement with the Niagara Falls Park and River Railway Company. 57 V. c. 13, s. 6.

(2) Any agreement between the Commissioners and the said Clifton Suspension Bridge Company heretofore made which, if made hereafter, would be authorized by this section, is confirmed as if made after the passing of this Act. 57 V. c. 13, s. 7.

Granting
rights over
lands to
bridge com-
panies.

23.—(1) The Commissioners may also, upon terms to be agreed on and approved by the Lieutenant-Governor in Council, grant to the Clifton Suspension Bridge Company, or any other duly incorporated bridge company, any rights over or in respect of lands held by the Commissioners which may be required for the purposes of building any new bridge over the Niagara river, or of confirming the present occupation of land by any bridge companies now existing. 57 V. c. 13, s. 8.

Rights not to
be granted in
park proper.

50 V. c. 13.

(2) This Act does not authorize the granting of any rights for the purpose in this section mentioned, through the lands vested in the Commissioners by section 3 of *The Queen Victoria Niagara Falls Park Act, 1887*, the same being the lands constituting what is sometimes called the "Park Proper." 57 V. c. 13, s. 9.

Commission-
ers empow-
ered to grant
strip to Clif-
ton Suspen-
sion Bridge
Company.

24.—Subject to the approval of the Lieutenant-Governor in Council, the Commissioners may grant to the Clifton Suspension Bridge Company a strip of land from off the chain reserve along the Niagara River and abutting the lands in occupation of the said company. 59 V. c. 10, s. 1.

CHAPTER 46.

An Act to establish the Algonquin National Park of Ontario.

SHORT TITLE, s. 1.	GENERAL PENALTIES, ss. 16, 17.
LIMITS AND PURPOSES OF PARK, ss. 2-5.	SUPERINTENDENT'S AUTHORITY, ss. 18, 19.
MANAGEMENT, s. 6.	ACTS FOR PROTECTION OF FISH AND GAME TO APPLY, s. 20.
REGULATIONS TO BE PUBLISHED, s. 7.	LICENSED GUIDES, s. 21.
HUNTING, FISHING, ETC., PROHIBITED, ss. 8-10.	PUNISHMENT OF OFFENDERS, ss. 22, 23.
CONFISCATION OF NETS, WEAPONS, ETC., ss. 11, 12.	WHO MAY TRY, s. 24.
CUTTING TIMBER PROHIBITED, s. 13.	APPLICATION OF FINES, s. 25.
EXPLORING FOR MINERALS, s. 14.	PROCEDURE ON PROSECUTIONS, s. 26.
INTOXICATING LIQUORS, s. 15.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Algonquin National Park Act*." 56 V. c. 8, s. 1. Short title.

2.—(1) The tract of land comprising the following townships being the lands of the Crown, and lying within the Nipissing district, that is to say, the townships of Peck, Hunter, Devine, Biggar, Wilkes, Canisbay, McLaughlin, Bishop, Osler, Pentland, Sproule, Bower, Freswick, Lister, Preston, Dickson, Anglin, and Deacon, is hereby withdrawn from sale, settlement and occupancy under the provisions of *The Public Lands Act*, *The Free Grants and Homesteads Act*, and *The Mines Act*. 56 V. c. 8, s. 2. Boundaries of park.
Rev. Stats.
cc. 28, 29, 36.

(2) The Lieutenant-Governor in Council is hereby authorized to withdraw from the Algonquin Park the south-east quarter of the township of Canisbay, now a portion of said park. 57. V. c. 14, s. 1. Withdrawal of part of Canisbay from park.

3. The said tract of land is hereby reserved and set apart as a public park and forest reservation, fish and game preserve, health resort and pleasure ground for the benefit, advantage and enjoyment of the people of the Province, sub- Dedication of park.

ject to the provisions of this Act and of the regulations hereinafter mentioned, and shall be known as "The Algonquin National Park of Ontario." 56 V. c. 8, s. 3 (1).

Lieutenant-Governor may add other townships to park.

4.—(1) The Lieutenant-Governor in Council shall have power to add to the park any adjoining townships or parts of townships, and in case of any such addition this Act shall be read with respect to such townships or parts of townships as if the same were mentioned in section 2 of this Act. 56 V. c. 8, s. 3 (2); 58 V. c. 8, s. 1, part.

May impose terms and conditions.

(2) Where lands have been granted in any such township or part of township the Lieutenant-Governor in Council may impose such terms and conditions in adding the same or any part thereof to the park as shall to him seem fit and proper. 58 V. c. 8, s. 1, part.

Lands not to be located or settled upon.

5. No person shall, except as hereinafter provided, locate, settle upon, use or occupy any portion of the said public park. 56 V. c. 8, s. 4.

Control of park.

6. The park shall be under the control and management of the Department of Crown Lands, and the Lieutenant-Governor in Council may make regulations for the following purposes :—

Regulations.

Care and preservation.

(a) The care, preservation, management and improvement of the park, and of the watercourses, lakes, trees and shrubbery, minerals, natural curiosities and other matters therein contained.

Leasing lots for erection of buildings.

(b) The lease for any term of years of such parcels of land in the park as he deems advisable, for the construction of buildings for ordinary habitation, and such other buildings as may be necessary for the accommodation of visitors or persons resorting to the park as a sanatorium or health or summer resort.

Issuing timber licenses.

(c) The issuing of licenses to cut timber within the limits of the park in respect of timber births heretofore sold, and for the improvement of the park, and for firewood for the use of persons engaged in and about the park.

Mining.

(d) The working of mines and the developing of mining interests within the limits of the park, and the issuing of licenses or permits of occupation for the said purposes; but no lease, license or permit shall be made, granted or issued under this or the next two preceding clauses of this section which will in any way impair the usefulness of the park for the purposes for which it is designed.

Fires.

(e) The prevention and extinguishment of fires.

Licensing shops and inns.

(f) The issuing of licenses for shops, and for houses for the accommodation of visitors and places where trade and indus-

tries necessary for the accommodation of persons resorting to the park may be carried on.

(g) The preservation and protection of game and fish, of wild birds generally, and of any or all animals in the park, and for the destruction of wolves, bears and other noxious or injurious or destructive animals. 56 V. c. 8, s. 5 (a—g). Preservation of game and fish.

(h) The removal and exclusion of pedlars, travelling salesmen, and other trespassers, and the confiscation or destruction of guns or other firearms or explosives, traps, nets, spears or other weapons or implements for hunting or fishing found within the limits of the park without proper authority. 56 V. c. 8, s. 5 (h); 59 V. c. 9, s. 1. Trespassers.

(i) The appointment of a Superintendent and Wardens, Rangers, or other officers to see to the carrying out of the provisions of this Act and the regulations made thereunder, and the prescribing of their powers and duties, and providing for their salaries or other remuneration, out of any moneys which may be set apart for the purpose by the Legislature. Appointment of superintendent, wardens, etc.

(j) The imposition of penalties for any violation of the provisions of this Act or of the regulations made thereunder not exceeding in each case the sum of \$50, or in default of payment with costs, imprisonment for not more than three months. Penalties.

(k) And generally for all purposes necessary to carry this Act into effect according to the true intent and meaning thereof. 56 V. c. 8, s. 5 (i—k). General purposes.

7. Every regulation made as aforesaid shall after its publication for four consecutive weeks in the *Ontario Gazette*, and in any other manner that may be prescribed by the Lieutenant-Governor in Council, have the like force and effect as if herein enacted, and such regulations shall be laid before the Legislative Assembly within fifteen days after its first meeting thereafter. 56 V. c. 8, s. 6. Publication of regulations.

8. Carrying or using firearms or explosives within the said park, except as provided by the regulations for the government and maintenance of the park, hunting with or without firearms or explosives, and trapping or spearing within the limits of the said park, except under special license for the killing of wolves, bears, wolverines, wild cats, foxes or hawks, to be issued by the Commissioner of Crown Lands upon the recommendation of the Superintendent, are hereby prohibited under a penalty for each offence of a sum not exceeding \$100. 56 V. c. 8, s. 7. Penalty for unauthorized use of firearms, hunting, etc.

9.—(1) Fishing with net, trap, spear or night line in the waters within the limits of the said park is prohibited under a penalty not exceeding \$100 for each offence. Penalty for unauthorized fishing.

License to
fish.

(2) No person shall fish within such waters with hook and line without a license therefor, and then only for the purpose of supplying food for visitors or officers of the park or rangers or labourers therein employed by or under the control of the superintendent, and no fish caught within the waters of the park shall be sold, bartered or trafficked in, either within or outside its boundaries, under a penalty not exceeding \$50 for each offence.

(3) Such license may be issued by the Commissioner of Crown Lands or by such other person as shall be duly authorized in that behalf by the Lieutenant-Governor. 56 V. c. 8, s. 8.

Power to
arrest on view
of offence.

10. The Superintendent or any park ranger or provincial constable, or other person appointed by the Lieutenant-Governor for that purpose, may, on view, without warrant or legal process, arrest and bring before a Justice of the Peace or before the Superintendent to be dealt with according to law, or he or they or the Superintendent may, on view, arrest and remove from the limits of the park, any person found violating the provisions of this Act or carrying or having in his possession fishing nets, traps, spears or night lines, or firearms or other explosives, or other weapons or instruments for catching or killing fish, other than hook or line, or for the destruction of game or animals. The said park rangers shall have all the power and authority of constables. 56 V. c. 8, s. 9.

Seizure, con-
fiscation and
sale of
weapons or
implements.

11. In any of the cases mentioned in the three next preceding sections any of such officers may seize, take possession of and retain or confiscate any such nets, traps, spears, firearms, explosives, weapons or instruments as aforesaid, or any Justice of the Peace, Police or Stipendary Magistrate having jurisdiction in the district may direct or order such seizure, confiscation or sale thereof. Such articles shall be sold in such manner as shall be provided by regulation, and the proceeds thereof, after deducting the necessary expenses, shall be applied towards the expenses of maintaining the said park. Such arrest, removal, seizure, confiscation or sale shall not relieve the offender from any other penalty to which he has rendered himself liable under this Act or otherwise. 56 V. c. 8, s. 10.

Confiscating
weapons
unlawfully
used, etc.

12.—(1) The Superintendent or any park ranger may seize, take possession of, and confiscate or destroy any nets, traps, spears, explosives, weapons or instruments which he may find within the park, whether the same are held or set out with intent to take or kill any animals or fish the taking or killing of which is forbidden by this Act, or otherwise, and may also seize and take possession of all firearms, furs, skins or peltries found within the park, and the burden of proving that such furs, skins or peltries have not been taken or obtained contrary to law shall be and rest upon the person claiming the same or in whose possession they may be found.

(2) The superintendent shall at once report any such seizure to the Commissioner of Crown Lands, who shall have power to direct the confiscation of the articles seized or any of them and to direct that they be sold and the proceeds of the sale applied in the manner provided in section 11 of this Act.

(3) For the purpose of searching for nets, traps, spears, fire-arms, explosives, weapons, instruments, furs, skins or peltries, the Superintendent or any ranger may enter into any house, dwelling, structure or camp within the park and may there search for the same without a search warrant, and shall have the same powers of seizure and confiscation as elsewhere within the park. 58 V. c. 8, s. 2.

13.—(1) No timber or wood shall be cut within the limits of the said park except pine cut under the authority of a timber license issued under the provisions of *The Act respecting Timber on Public Lands*, or any regulations made thereunder, or by the authority of the Commissioner of Crown Lands, or under the regulations to be made by the Lieutenant-Governor in Council for the government and maintenance of the said park, provided nevertheless that nothing herein contained shall have the effect of withdrawing the pine timber upon such territory from any timber license, nor shall anything herein contained prevent the operation of any Act or regulation passed or made, or which may be lawfully passed or made in respect of any timber license affecting the said territory or the timber thereupon. Cutting timber. Rev. Stat. c. 32.

(2) A timber license over or in respect of any territory or lands being part of the said park shall not entitle the holder thereof to exclusive possession of such land or territory as against the Crown or the agents or servants thereof, nor shall any such license exempt the holder thereof, his agents or employees, from the prohibitions relating to fishing or hunting or the carrying or using of fire arms within the limits of the said park. 56 V. c. 8, s. 11. Rights of timber licensees.

14. Mining exploration or prospecting for minerals within the said park is prohibited, except under and in accordance with the provisions of the regulations to be made in that behalf. 56 V. c. 8, s. 12. Mining exploration.

15. No license for the sale of intoxicating liquors within the said park shall be issued, and any intoxicating liquor found within the limits of the said park and held for the purpose of sale may be seized and destroyed by any park ranger or by any constable or license inspector having authority within the District of Nipissing, and the said rangers shall have all the powers and authority of a license inspector for the purpose of enforcing the provisions of *The Liquor License Act* therein and the provisions of this Act. 56 V. c. 8, s. 13. Sale of intoxicating liquors within the park. Rev. Stat. c. 245.

Offences to which no special penalty attached.

16. Any person violating any provision of this Act shall where no penalty is herein or by law otherwise provided, be liable to a penalty not exceeding \$50 and costs, and in default of payment thereof to imprisonment for a period not exceeding three months with or without hard labour. 56 V. c. 8, s. 15.

Offender's liability for damages.

17. In addition to any penalty provided by this Act for the violation of any of its provisions, the offender shall be liable for all damages caused by him, and the same may be recovered in any court of competent jurisdiction. 56 V. c. 8, s. 16.

Authority of Superintendent to have authority of police magistrate.

18. The Superintendent shall, within the limits of said park and for one mile from any part thereof, for the purposes of enforcing law and order and the provisions of this Act, and of any regulations which may be made by virtue thereof, have all the powers, rights and privileges of a Police Magistrate, and shall have as such Superintendent jurisdiction over and within the said park and the territory surrounding the same for the distance of one mile therefrom or from any part thereof, unless and until otherwise provided by the Lieutenant-Governor in Council, or the Lieutenant-Governor in Council may appoint another person as Police Magistrate with such jurisdiction. But nothing in this section shall interfere with the jurisdiction of other Magistrates. 56 V. c. 8, s. 17.

Superintendent to be *ex officio* a health officer.

Rev. Stat. c. 248.

19. The Superintendent of the said park shall be *ex officio* a health officer for the said park and for the territory surrounding the same for the distance of one mile therefrom or from any part thereof, and shall have all the powers and perform all the duties by *The Public Health Act* or any amendment thereto, or any other Act conferred or imposed upon medical health officers or local boards of health in the Province; and all park rangers whether employed temporarily or otherwise, shall be *ex officio* sanitary inspectors under the said *Public Health Act*, and shall possess all the powers conferred upon sanitary inspectors under the said Act or any amendment thereto. 59 V. c. 9, s. 2.

Territory not withdrawn from operation of Rev. Stats. cc. 285, 287.

20. Nothing herein contained shall withdraw the said territory comprising the said park nor that within a mile from any part thereof from the operation of *The Ontario Fisheries Act* or *The Act for the Protection of Game and Fur-bearing Animals*, or any Acts which may be passed amending the same, except where it is therein otherwise provided, but the said Acts shall be and remain in force therein unless otherwise provided herein, but the provisions of said several Acts shall in so far as they are applicable apply and be in force, and prosecutions thereunder may be had as heretofore. 56 V. c. 8, s. 14.

21.—(1) The Superintendent of the said park may issue Licenses to licenses to fit and proper persons to act as guides in conducting guides. tourists and visitors into and through the park, and no person shall act as guide to or accompany any tourist or visitor or party of tourists or visitors without being in possession of such license, under a penalty not exceeding \$20 for each offence, to be recovered as any other penalty may be recovered under this Act, and in default of payment the offender may be committed to gaol for a period not exceeding thirty days.

(2) The annual fee to be paid for a license shall not exceed the sum of one dollar.

(3) The Superintendent may cancel any such license upon proof of violation by the holder thereof of this Act or any of the regulations made hereunder. 58 V. c. 8, s. 3.

22. Any person arrested for violation of any of the provisions of this Act or of any regulations punishable upon summary conviction by a Justice of the Peace, Stipendiary or Police Magistrate may, either before or after conviction, be committed to the common gaol or any lock-up within the districts of Nipissing, Parry Sound or Muskoka, or the county of Renfrew, whichever may to the committing Justice or Magistrate appear to be the most convenient. 56 V. c. 8, s. 18. Committal of offenders.

23. In default of the payment of any penalty imposed by this Act and costs by any person convicted of any offence under this Act, the offender may be committed to a common gaol or lock-up in the districts of Muskoka, Parry Sound or Nipissing, or in the County of Renfrew for a period not exceeding three months, unless the penalty and costs and the costs and charges of the commitment and carrying the defendant to prison are sooner paid, and the amount of such costs and charges of commitment and carrying the offender to prison are to be ascertained and stated in the warrant of commitment; but no such commitment or warrant shall be void or be quashed or set aside by reason of such costs being incorrectly stated, but the same shall be amended by the insertion therein, at any stage of the proceedings, of the correct amount. 56 V. c. 8, s. 19. Imprisonment in default of payment of fine and costs.

24. All prosecutions for the punishment of any offence under this Act, not specifically otherwise provided for, may take Who may try offences. place before any Stipendiary or Police Magistrate, or one or more of Her Majesty's Justices of the Peace having jurisdiction in the district of Nipissing, or before the said Superintendent, or other person appointed under the authority of this Act. 56 V. c. 8, s. 21.

25. One-half of every fine or penalty imposed by virtue of this Act shall belong to Her Majesty and may be devoted Application of fines. towards paying the expenses incurred in carrying out the pro-

visions of this Act, and the other half thereof when collected shall be paid over to the prosecutor or informant, together with any costs which he may have incurred and which may be collected. But nothing herein shall entitle the Superintendent or rangers or other of the park employees to a share of, or to participate in any fine or penalty. 56 V. c. 8, s. 22.

Application
of Rev. Stat.
c. 90.

26. Save where otherwise provided by this Act, in so far as they are applicable, the provisions of *The Ontario Summary Convictions Act* shall apply to prosecutions and proceedings under this Act, except in proceedings on appeal, and the practice and procedure upon and with respect to appeals and all proceedings thereon and thereafter shall be governed by *The Act respecting the Procedure on Appeals to the Judge of a County Court from Summary Convictions*, and no other appeal shall be had or shall lie save under the Act last aforesaid. 56 V. c. 8, s. 23.

Rev. Stat.
c. 92.

CHAPTER 47.

An Act to establish a Provincial Park at Rondeau.

SHORT TITLE, s. 1.

LIMIT AND PURPOSES OF PARK, ss. 2, 3.

SETTLEMENT IN, PROHIBITED, s. 4.

MANAGEMENT OF, s. 5.

PUBLICATION OF REGULATIONS, s. 6.

TIMBER NOT TO BE CUT IN, s. 7.

INTOXICATING LIQUORS PROHIBITED, s. 8.

HUNTING AND SHOOTING, s. 9.

GENERAL PENALTIES AND RECOVERY OF, ss. 10-12.

WHO MAY TRY OFFENDERS, s. 13.

APPLICATION OF FINES, s. 14.

PROCEDURE, s. 15.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Rondeau Provincial Park Short Title Act.*" 57 V., c. 15, s. 1.

2. The tract of land, marsh and land covered with water, hereinafter mentioned that is to say, so much of the Rondeau Peninsula in the County of Kent, as is the property of the said Province and which may be known and described as follows, namely: All that block bounded on the north by lot number twenty-four, in the broken front concession of the township of Harwich; on the east and south, by the waters of Lake Erie and on the west, by the waters of the harbour of Rondeau and the easterly break-water pier at the entrance to the said harbour; excepting thereout the land granted by letters patent, to Isaac Swartout in 1872, being lot number one, Pointe aux Pins, containing 58½ acres, and, also that part of the sand beach containing 15½ acres dividing the harbour of Rondeau from Lake Erie, vested in the Government of Canada for lighthouse purposes, and also excepting the five hundred acre block of ordnance land controlled or owned by the Government of Canada, the whole, exclusive of these exceptions, containing an area of land, marsh and land covered with water, of four thousand four hundred and forty-six acres, more or less, is hereby reserved and set apart as a public park, for preservation and health resort for the benefit, advantage and enjoyment of the people of the Province, subject to the provisions of this Act, and of the regulations hereinafter mentioned, to be known as "*The Rondeau Provincial Park.*" 57 V. c. 15, ss. 2, 3.

Description of lands.

Dedication of land for park purposes.

Ordinance
lands when
transferred to
Province to
be part of
Rondeau
Park.

3. Any lands now held by the Crown as representing the Government of the Dominion of Canada on Rondeau Point or Pointe aux Pins in the township of Harwich and county of Kent as ordnance lands or otherwise, and consisting of a block of land comprising the south forty acres of lot 11 and all of lots 12, 13 and 14 on Lake Erie on the said Rondeau Point or Pointe aux Pins, and containing 500 acres more or less, which may hereafter be transferred to the Crown as representing the Government of the Province of Ontario, shall, upon such transfer, be included within the Rondeau Provincial Park as part thereof, and all the provisions of this Act or of any other Act relating to the said Park or of any rules or regulations made under any of the said Acts shall apply to the lands so transferred. 60 V. c. 6, s. 1.

Lands not to
be located or
settled upon.

4. No person shall, except as hereinafter provided, locate, settle upon, use or occupy any portion of the said public park. 57 V. c. 15, s. 4.

Control of ;
park
regulations.

5. The park shall be under the control and management of the Department of Crown Lands, and the Lieutenant-Governor in Council may make regulations for the following purposes :—

Care and
management.

(a) The care, preservation, management and improvement of the park, and of the watercourses, lakes, trees and shrubbery, and other matters therein ;

Leasing lots.

(b) The lease for any term of years of such parcels of land in the park as he deems advisable, for the construction of buildings for habitation during the summer, and such other buildings as may be necessary for the accommodation of visitors or persons resorting to the park as a sanatorium or health or summer resort ;

Fires.

(c) The prevention and extinguishment of fires ;

Licensing
shops, etc.

(d) The issuing of licenses for shops, and for houses for the accommodation of visitors, and places for the accommodation of persons resorting to the park ;

Trespassers.

(e) The removal and exclusion of trespassers ;

Park ranger.

(f) The appointment of a Park Ranger to see to the carrying out of the provisions of this Act and the regulations made thereunder ; and for defining his powers and duties, and providing for his salary or other remuneration, out of any moneys which may be voted for the purpose by the Legislature ;

Penalties.

(g) The imposition of penalties for any violation of the provisions of this Act or of the regulations made thereunder, not exceeding in any case the sum of \$50 and costs, or in default of payment, imprisonment for not more than three months ;

General
purposes.

(h) And, generally, for all purposes necessary to carry this Act into effect, according to the true intent and meaning thereof. 57 V. c. 15, s. 5.

6. Every regulation made as aforesaid shall, after publication for four consecutive weeks in the *Ontario Gazette*, and in any other manner that may be prescribed by the Lieutenant-Governor in Council, have the like force and effect as if herein enacted, and such regulations shall be laid before the Legislative Assembly within fifteen days after its first meeting subsequent to the making thereof. 57 V. c. 15, s. 6.

Publication of regulations.

7. No timber or wood shall be cut within the limits of said park, except dead or fallen wood, or in clearing for roads or other park purposes, or underbrushing in clearing and maintaining the park as shall be provided for by regulation, and then only under the direction of the Park Ranger. 57 V. c. 15, s. 7.

Cutting timber.

8. No license for the sale of intoxicating liquors within the said park nor within one mile thereof shall be issued, and any intoxicating liquor found within the limits of the said park may be seized and destroyed by the Park Ranger, or by any constable or license inspector having authority within the county of Kent, and the said Ranger shall have all the powers and authority of a license inspector for the purpose of enforcing the provisions of *The Liquor License Act* and the provisions of this Act, within the limits of the park, and shall for all purposes have the powers of a provincial constable. 57 V. c. 15, s. 8.

Sale of intoxicating liquors within the park.

Rev. Stat. c. 245.

9.—(1) No person shall at any time shoot, hunt, take or kill any partridge, prairie fowl, quail, woodcock, snipe, wild turkey or other bird or fowl whatsoever within the boundaries of the said park; nor shall anyone shoot, hunt, trap, take or kill any wild animal in the said park, except foxes, skunks, weasels, owls, hawks or other noxious animals or birds, and as to such excepted animals only after obtaining the consent and authority of the Ranger of the said park in writing; but this shall not prevent or apply to the shooting or taking wild duck or geese in the waters around and along the coasts of the said park during the lawful season, and in accordance with the regulations hereinafter authorized. 58 V. c. 56, s. 8; 59 V. c. 68, s. 4, part.

Hunting of game prohibited.

(2) The Lieutenant-Governor in Council may, by order in Council in that behalf, make special provisions for regulating the shooting, hunting, taking or killing within two miles of the park or within Rondeau Harbour of any bird or fowl protected by the provisions of this Act. 59 V. c. 68, s. 4, part.

Regulation of the killing of birds near the park.

(3) Anyone offending against the provisions of this section or violating the provisions of the said regulations shall be liable for each offence to a fine not exceeding \$50 and not less than \$20, together with costs of prosecution, to be recoverable in the same manner as under section 28 of *The Ontario Game Protection Act*. 58 V. c. 56, s. 8, part; 59 V. c. 68, s. 4, part.

Rev. Stat. c. 287.

Offences to which no special penalty attached.

10. Any person violating any provision of this Act shall, where no penalty is herein or by law or regulation otherwise provided, be liable to a penalty not exceeding \$25 and costs, and in default of payment thereof to imprisonment for a period not exceeding three months, with or without hard labour. 57 V. c. 15, s. 9.

Liability of offenders for damages.

11. In addition to any penalty provided for by this Act for the violation of any of its provisions, the offender shall be liable for all damages caused by him, and the same may be recovered in any court of competent jurisdiction. 57 V. c. 15, s. 10.

Imprisonment in default of payment of fine and costs.

12. In default of the payment of any penalty imposed by this Act and costs, by any person convicted of any offence under this Act, the offender may be committed to the common gaol for a period not exceeding three months, unless the penalty and costs and the costs and charges of the commitment and carrying the defendant to prison are sooner paid, and the amount of such costs and charges of commitment and carrying the offender to prison are to be ascertained and stated in the warrant of commitment; but no such commitment or warrant shall be void or be quashed or set aside by reason of such costs being incorrectly stated, but the same shall be amended by the insertion therein, at any stage of the proceedings, of the correct amount. 57 V. c. 15, s. 11.

Who may try offences.

13. All prosecutions for the punishment of any offence under this Act, not specifically otherwise provided for by any Act or law, may take place before one or more of Her Majesty's Justices of the Peace having jurisdiction in the county of Kent. 57 V. c. 15, s. 13.

Application of fines.

14. One-half of every fine or penalty imposed by virtue of this Act shall belong to Her Majesty, and may be devoted towards paying the expenses incurred in carrying out the provisions of this Act, and the other half thereof when collected shall be paid over to the prosecutor or informant, together with any costs which he may have incurred and which may be collected, but nothing herein shall entitle the Ranger to a share of, or to participate in, any fine or penalty. 57 V. c. 15, s. 14.

Application of Rev. Stat. c. 90.

15. Save where otherwise provided by this Act, in so far as they are applicable, the provisions of *The Ontario Summary Convictions Act* shall apply to prosecutions and proceedings under this Act, except in proceedings on appeal and the practice and procedure upon and with respect to appeals and all proceedings thereon and thereafter shall be governed by the Act respecting the Procedure on Appeals to the Judge of a County Court from Summary Convictions, and no appeal shall be had or shall lie save under the Act aforesaid. 57 V. c. 15, s. 15.

Rev. Stat. c. 92.

SECTION VII.

ADMINISTRATION OF JUSTICE.

1. APPEALS TO THE PRIVY COUNCIL.

CHAPTER 48.

An Act respecting Appeals to Her Majesty in Her Privy Council.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where the matter in controversy in any case exceeds the sum or value of \$4,000, as well as in any case where the matter in question relates to the taking of any annual or other rent, customary or other duty, or fee, or any like demand of a general and public nature affecting future rights, of what value or amount soever the same may be, an appeal shall lie to Her Majesty in Her Privy Council; and except as aforesaid no appeal shall lie to Her Majesty in Her Privy Council. R. S. O. 1887, c. 41, s. 1.

When appeals may be made to the Queen in Privy Council.

2. No such appeal shall be allowed until the appellant has given security in \$2,000, to the satisfaction of the Court appealed from, that he will effectually prosecute the appeal, and pay such costs and damages as may be awarded in case the judgment appealed from is confirmed. R. S. O. 1887, c. 41, s. 2.

Security to be given.

3. Upon the perfecting of such security, execution shall be stayed in the original cause. R. S. O. 1887, c. 41, s. 3.

Execution to be stayed.

4. Subject to entry to be made by the Judges authorized to make rules with reference to the High Court and Court of Appeal under *The Judicature Act*, the practice applicable to staying executions upon appeals to the Court of Appeal in force prior to 16th April, 1895, shall apply to an appeal to Her Majesty in Her Privy Council. R. S. O. 1887, c. 41, s. 4.

Practice of Court of Appeal to apply. Rev. Stat. c. 51.

Approval
of security.

5. A Judge of the Court of Appeal shall have authority to approve of and allow the security to be given by a party who intends to appeal to Her Majesty in Her Privy Council, whether the application for such allowance be made during the sitting of the said Court, or at any other time. R. S. O. 1887, c. 41, s. 5.

Preceding
sections not to
apply to cer-
tain Privy
Council
Appeals.
Rev. Stat.
c. 84.

6. The preceding sections shall not apply to an appeal to Her Majesty in Her Privy Council from a judgment of any court on a reference under *The Revised Statute for Expediting the Decision of Constitutional and other Provincial Questions*. 53 V. c. 13, s. 7 part.

Costs.

7. Costs awarded by Her Majesty in Her Privy Council upon an appeal, shall be recoverable by the same process as costs awarded by the Court of Appeal. R. S. O. 1887, c. 41, s. 6.

2. SUPREME AND EXCHEQUER COURTS OF CANADA.

CHAPTER 49.

An Act respecting the Supreme Court of Canada and the Exchequer Court of Canada.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. The Supreme Court of Canada, and the Exchequer Court of Canada, or the Supreme Court of Canada alone, according to the provisions of the Act of the Parliament of Canada, known as "*The Supreme and Exchequer Courts Act*," shall have jurisdiction in the following cases :—

Supreme Court and Exchequer Courts of Canada.
R. S. C. c. 135.

1. Of controversies between the Dominion of Canada and this Province ;
2. Of controversies between any other Province of the Dominion, which may have passed an Act similar to this present Act, and this Province ;
3. Of actions, or proceedings, in which the parties thereto by their pleadings have raised the question of the validity of an Act of the Parliament of Canada, or of an Act of the Legislature of this Province, when in the opinion of a Judge of the Court in which the same are pending such question is material ; and in such case the said Judge shall, at the request of the parties, and may without such request, if he thinks fit, order the case to be removed to the Supreme Court in order to the decision of such question. R. S. O. 1887, c. 42, s. 1.

Controversies between Canada and Ontario.
Controversies between Ontario and certain other Provinces.
Cases involving the validity of Acts of Canada or Ontario.

2. In any action respecting property or civil rights, whether for damages or for specific relief, the judgment of the Court of Appeal for Ontario shall be final except in the following cases :]

When judgment of Court of Appeal final.

- (a) Where the title to real estate or some interest therein is in question.
- (b) Where the validity of a patent is affected.

- (c) Where the matter in controversy in the appeal exceeds the sum or value of \$1,000, exclusive of costs.
- (d) Where the matter in question relates to the taking of an annual or other rent, customary or other duty or fee, or a like demand of a general or public nature affecting future rights.
- (e) Where the special leave of the Court of Appeal or the Supreme Court of Canada to appeal to such last mentioned Court is granted. 60 V. c. 14, s. 1.

Authority of Judges of the Court of Exchequer as to use of Court House, etc.

3. In case sittings of the Court of Exchequer of Canada are appointed to be held in any City, Town, or place in which a Court House is situated, the Judge presiding at any such sittings, shall have, in all respects the same authority as a Judge of the High Court in regard to the use of the Court House and other buildings or apartments set apart in the County for the administration of justice. R. S. O. 1887, c. 42, s. 3.

[See R. S. C. Cap. 135, Secs. 72, 73, 74.]

3. *MARITIME COURT OF ONTARIO.*

CHAPTER 50.

An Act respecting the Maritime Court of Ontario.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In case sittings of the Maritime Court of Ontario or of any Judge thereof are appointed to be held in any City, Town or place in which a Court House is situated, the Court or Judge shall for all purposes connected with the said Maritime Court and its process have the same authority as the County Court or a Judge thereof in regard to the use of the Court House, Gaol and other buildings or apartments set apart in the County for the administration of justice. R. S. O. 1887, c. 43, s. 1.

Authority of
Judge as to
use of court
house, etc.

4. CONSTITUTION OF THE PROVINCIAL COURTS.

CHAPTER 51.

An Act respecting the Supreme Court of Judicature of Ontario.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

CONSTITUTION OF SUPREME COURT,
ss. 3-24.

Supreme Court continued, s. 3.

Judges, ss. 3, 4.

Judgment by Judge who has re-
signed, s. 5.

Court of Appeal continued, s. 6.

Judges, ss. 6, 7.

Judges or retired Judges may
hold Assizes etc., ss. 9, 10.How to be constituted to hear
appeals, s. 11.How Quorum to be made up,
ss. 12-16.Judge whose decision appeal-
ed from not to sit, s. 17.Judgment in absence of a
Judge who heard cause, ss.
18, 19.

Presiding Judge, s. 20.

Sittings, s. 21.

Precedence of Judges, s. 8.

Oath of Judges, ss. 22, 23.

Seals of Court of Appeal and
High Court, s. 24.JURISDICTION OF HIGH COURT, ss.
25-43.JURISDICTION OF COURT OF APPEAL,
ss. 49-56.

RULES OF LAW, ss. 57-59.

NOTICE TO BE GIVEN TO MINISTER OF
JUSTICE AND TO ATTORNEY-GEN-
ERAL BEFORE ANY ACT DECLARED
INVALID, s. 60.SITTINGS OF COURT AND DISTRIBU-
TION OF BUSINESS, ss. 61-71.

APPEALS, ss. 72-77.

LIMITATION OF TIME FOR APPEALING,
ss. 78-80.

EFFECT OF JUDICIAL DECISIONS, s. 81.

SITTINGS FOR TRIALS, ss. 82-91.

TRIAL OF SUPERIOR COURT CASES
IN COUNTY COURTS AND OF
COUNTY COURT CASES IN HIGH
COURT, ss. 92-96.CERTIFICATE OF LIS PENDENS, ss.
97-100.

ASSESSORS, s. 101.

TRIAL AND PROCEDURE, ss. 102-112.

INTEREST, ss. 113-116.

ACTIONS ON FOREIGN JUDGMENTS,
ss. 117, 118.

COSTS, s. 119.

WITNESS FEES OF OFFICIALS, s. 120.

REFERENCES TO MASTER IN ORDIN-
ARY, s. 121.

RULES OF COURT, ss. 122-129.

OFFICERS AND OFFICES, ss. 130-184.

LOCAL JUDGES OF HIGH COURT,
s. 185.TRANSFER OF CAUSES FROM COUNTY
OR DIVISION COURTS TO HIGH
COURT, s. 186.

MISCELLANEOUS, ss. 187-191.

HER MAJESTY, by and with the advice and consent, of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

TITLE.

Short title.

1. This Act may be cited as "*The Judicature Act.*" 58 V.
c. 12, s. 1.

INTERPRETATION.

2. Where the words following occur in this Act and in the Rules, made thereunder they shall be construed in the manner hereinafter mentioned unless a contrary intention appears. Interpretation
of terms.

1. "Rules of Court" shall include forms.

2. "Cause" shall include any action, suit, or other original proceeding between a plaintiff and a defendant.

3. "Action" shall include suit and shall mean a civil proceeding commenced by writ, or in such other manner as may be prescribed by rules of Court.

4. "Matter" shall include every proceeding in the Court not in a cause.

5. "Plaintiff" shall include every person asking any relief (otherwise than by way of counter-claim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons, or otherwise.

6. "Petitioner" shall include every person making any application to the Court, either by petition, motion or summons, otherwise than as against any defendant.

7. "Defendant" shall include every person served with any writ of summons or process, or served with notice of or entitled to attend any proceeding.

8. "Party" shall include every person served with notice of or attending, any proceeding, although not named on the record.

9. "Pleading" shall include any petition or summons, and shall also include the statement in writing of the claim or demand of any plaintiff, and of the defence of any defendant thereto, and of the reply of the plaintiff to any counter-claim of a defendant.

10. "Judgment" shall include decree and a decretal order.

11. "Order" shall include rule.

12. "Oath" shall include solemn affirmation and statutory declaration.

13. "Proper officer" shall, unless and until any rule to the contrary is made, mean an officer to be ascertained as follows :—

(a) Where any duty to be discharged under this Act or under Rules of Court is a duty which has been discharged by any officer, such officer shall continue to be the proper officer to discharge the same, until otherwise provided by Rule. 58 V. c. 12, s. 2, (1—13a.)

- (b) Where any new duty is, under the Rules aforesaid, to be discharged, the proper officer to discharge the same shall be such officer as may be named in the Rules or in case no officer is so named then such officer as may from time to time be directed to discharge the same by the President of the High Court. 59 V. c. 18, Sched. (1) ; 60 V. c. 3, s. 3.

CONSTITUTION OF THE SUPREME COURT OF JUDICATURE
FOR ONTARIO.

Supreme
Court of Judi-
cature con-
tinued.

3. (1) The Supreme Court of Judicature for Ontario at present existing is hereby continued, and all commissions, rules, orders and regulations granted or made in, by, or respecting the former Court of Queen's Bench for Ontario, the Court of Chancery for Ontario, and the Court of Common Pleas for Ontario, or the Supreme Court of Judicature, the Court of Appeal, and the High Court of Justice, or the Judges or officers thereof now existing and in force shall remain in force until altered or rescinded or otherwise determined.

(2) The Supreme Court shall continue to consist of two permanent divisions, to be called The High Court of Justice for Ontario, and The Court of Appeal for Ontario.

(3) The High Court of Justice for Ontario shall continue to consist of three divisions, to be called The Queen's Bench Division, The Chancery Division, and The Common Pleas Division of the High Court.

(4) The Queen's Bench Division shall during the reign of a King, be called The King's Bench Division, and during the reign of a Queen, The Queen's Bench Division.

(5) The persons hereafter appointed to fill the places of the Chief Justice of the Queen's Bench, the Chancellor of Ontario, and the Chief Justice of the Common Pleas, and their successors respectively, are to be appointed by the authority mentioned in *The British North America Act* and with the same respective titles as heretofore.

(6) The persons to be appointed Judges of the High Court shall be Barristers-at-Law of at least ten years' standing at the bar of Ontario.

(7) Save as in this Act is otherwise expressly provided, all the Judges hereinbefore mentioned, and their successors, shall have in all respects equal power, authority and jurisdiction.

(8) The Chief Justice of the Queen's Bench shall be the President of the Queen's Bench Division, the Chancellor shall be the President of the Chancery Division, and the Chief Justice of the Common Pleas shall be the President of the Common Pleas Division.

Imp. Stat.
30 V. c. 3.

(9) Besides the Chief Justice of the Queen's Bench, two Justices of the High Court shall be attached to the Queen's Bench Division; besides the Chancellor of Ontario, subject to section 4, three Justices of the High Court shall be attached to the Chancery Division; and besides the Chief Justice of the Common Pleas, two Justices of the High Court shall be attached to the Common Pleas Division.

(10) The President of the said High Court shall be that one of the Presidents of the Queen's Bench, Chancery and Common Pleas Divisions, who for the time being, is first in order of seniority.

(11) Upon a vacancy happening among the Judges, the Judge appointed to fill the vacancy is (subject to the provisions of this Act, and to any rules of Court which may be made pursuant thereto) to become and be a member of the same Division to which the Judge whose place has become vacant belonged.

(12) Nothing in this Act shall prevent, or shall be construed as intended to prevent the transfer of any Judge of any of the said Divisions from one to another of the said Divisions. 58 V. c. 12, s. 3.

4.—(1) One of the four Judges of the Chancery Division may, with his consent, be detached from the said Division without being appointed to any other Division of the said Court or ceasing to be a Judge of the High Court.

Detachment of one Judge from Chancery Division.

(2) In case of a vacancy occurring in the said Chancery Division without a Judge thereof having been detached therefrom the Judge to be appointed to the High Court in consequence of the vacancy shall not be attached to any particular division thereof.

(3) In either of such cases each of the Divisions of the High Court shall thenceforward have the same number of Judges.

(4) The Judge so detached or appointed shall continue a Judge of the High Court, and shall from time to time exercise his judicial functions in any of the divisions thereof. 58 V. c. 12, s. 4.

5. Where a Judge resigns his office, and any case which has been fully heard by such Judge, either alone or jointly with other Judges, stands for judgment, he may give judgment therein as if he were still a Judge of the Court; and any such judgment shall be of the same force and validity as if he were still such Judge, provided that such judgment of the Judge be delivered within six weeks after his resignation. 58 V. c. 12, s. 5.

Judgment by Judge who resigns after case heard.

6. The Court of Appeal for Ontario, at present existing is continued under that name, and shall consist of a Chief Justice, to be called the Chief Justice of Ontario, and four

Existing Court of Appeal continued.

other Judges to be called Justices of Appeal and the Judges of the High Court, shall be *ex-officio* Judges of the Court of Appeal, so as to provide for the cases mentioned in sections 12, 13 and 14 of this Act. 58 V. c. 12 s. 6; 60 V. c. 13, s. 1.

Who may be appointed to the Court of Appeal.

7. The Chief Justice of Ontario and the Justices of Appeal may be selected from the Judges for the time being, or the retired Judges of the High Court, or from such barristers as are eligible to be appointed Judges of that Court. 58 V. c. 12, s. 7.

Precedence of Judges.

8.—(1) The Chief Justice of Ontario shall have rank and precedence over all other Judges of the Courts in Ontario.

(2) The Justices of Appeal, the Chief Justice of the Queen's Bench, the Chancellor of Ontario, and the Chief Justice of the Common Pleas shall have rank and precedence among themselves according to their seniority of appointment to any of the said offices.

(3) The other Judges of the High Court shall have rank and precedence among themselves according to seniority of appointment to their respective offices. 58 V. c. 12, s. 8.

The Justices of the Court of Appeal may hold Assizes, etc.

9. The Chief Justice of Ontario and the Justices of Appeal may, in addition to their duties as Judges of the Court of Appeal, preside over Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, and hold sittings of the High Court of Justice, for the trial of civil causes, matters and issues, and criminal matters or proceedings; and every such Justice in the exercise of such duties shall have the same rights, powers and privileges as a Judge of the High Court presiding at such Court or Sittings. 58 V. c. 12, s. 9.

Provision for absence or vacancy in office of a Judge.

10. Upon the request of the Judge or Judges with or for whom he is requested to sit or act, it shall be lawful for any Judge of the Court of Appeal, or any retired Judge of the said Court, or of the High Court, who may consent so to do, to sit and act as a Judge of the said High Court, or to perform any other official or ministerial acts for or on behalf of any Judge absent from illness or any other cause, or in the place of any Judge whose office has become vacant, or as an additional Judge of any Division; and while so sitting and acting, any such Judge of the Court of Appeal or retired Judge shall have all the power and authority of a Judge of the said High Court. 58 V. c. 12, s. 10.

APPEALS.

Quorum of court of appeal.

11.—(1) Subject to sections 18 and 19 of this Act.

Rev. Stat. c. 11.

(a) Appeals from decisions of Divisional Courts and appeals under *The Controverted Elections Act*, shall be heard and disposed of by the full Court of five Judges.

(b) All other appeals, including appeals from the judgment of a single judge, may be heard and disposed of by not less than three judges.

(2) Where an appeal comes before a court of three Judges the Court instead of hearing such appeal, or giving judgment thereon, may direct the case to be heard or re-argued, as the case may be, before the full Court. 60 V. c. 13, s. 2. Hearing or re-arguing case before five judges.

12.—(1) In case from pressure of business, or other cause, it shall at any time seem expedient to the Lieutenant-Governor in Council, or to the Judges of the Supreme Court, or a majority of them (of which majority two Judges of the Court of Appeal, including the Chief Justice, unless absent on leave, shall form part), the Court of Appeal may sit in two Divisions either at the same time or at different times; and in such case and to enable two Divisional Courts of the Court of Appeal to be held, the judges of the Supreme Court, or the said majority of them, shall select from the Judges of the High Court a Judge or two of the Judges thereof as may be necessary to form, with the Justices of Appeal, two such Divisional Courts; and every Judge so chosen shall, while sitting in a Divisional Court of the Court of Appeal, have and may exercise all the powers and authority of a Justice of Appeal. Divisional Courts of Court of Appeal.

(2) At least two of the Justices of the Court of Appeal shall sit in such Divisional Court. 60 V. c. 13, s. 4.

13. In case of there being a vacancy in the Court of Appeal or in case from illness or some other cause, any of the Judges of the said Court are not present at some sitting of the Court, or in case any of the said Judges are under some legal disqualification to hear an appeal, the Judges of the High Court shall choose from amongst their number as many Judges as are necessary, to form a quorum; and the Judges so chosen and acting shall have authority to continue to hear appeals partly heard, and to give judgment in all appeals heard before them, notwithstanding that such vacancy may in the meantime have been filled up, or that the Judge who was absent may have resumed his duties. 58 V. c. 12, s. 12; 60 V. c. 13, s. 5. Quorum may be made up by the Judges of the High Court.

14. In case of a Judge or Judges not having been chosen by the Judges of the Supreme Court, as mentioned hereinbefore in this Act, or in case of the Judge or Judges chosen not being available, the senior of the Presidents of the Divisions of the High Court shall sit in the Court of Appeal where one Judge only is needed from the High Court, the two senior Presidents where two are needed. Any other Judge of the High Court may sit in the place of one of the Presidents by arrangement between such other Judge and the President whose duty it is to sit as aforesaid. 58 V. c. 12, s. 14; c. 13, s. 4; 59 V. c. 18, Sched.(2); 60 V. c. 13, s. 6. Judges of High Court sitting in Court of Appeal.

Duty in Court of Appeal to have precedence over other work of High Court Judge.

15. Where a Judge of the High Court is selected or it becomes his duty, under this Act, to sit in the Court of Appeal, the business of the Court of Appeal shall thenceforward have precedence of all other judicial duty of such Judge. 58 V. c. 12, s. 15; c. 13, s. 5.

Judges selected to sit in Court of Appeal until other selection made.

16. Judges of the High Court to whom at any time shall fall the duty of sitting in the Court of Appeal, or in a Divisional Court thereof, shall continue to be the Judges to perform such duty until a selection, or new selection (as the case may be), shall be made by a majority of the Judges of the Supreme Court. 58 V. c. 12, s. 16; c. 13, s. 7.

Judge appealed from not to sit.

17. No Judge against whose judgment an appeal is brought, or who took part in the trial of the cause or matter, or in the hearing in the Court below, shall sit or take part in the hearing of or adjudication upon the proceedings in the Court of Appeal. 59 V. c. 18, Sched. part of (3).

Reading judgment of absent Judge.

18. Where a Judge has heard a case in the Court of Appeal and is not present at the time of the judgment of the Court being delivered, his written judgment may be read by one of the other Judges of the Court and shall have the same effect as if he were present. 59 V. c. 18, Sched. part of (3).

In certain cases judgment may be given notwithstanding a vacancy occurs.

19. In case, after a cause or matter in the Court of Appeal has been heard and stands for judgment, one of the Judges by whom the appeal was heard is transferred to the Supreme Court of Canada or resigns his office, or is absent from illness or other cause, or dies, the remaining Judges, if unanimous in their decision, may give judgment as if such Judge were still a Judge of the Court of Appeal, and were present and taking part in the said judgment. 59 V. c. 18, Sched. part of (3).

Presiding Judge in absence of Chief Justice.

20. In the absence of the Chief Justice of Ontario, the Judge entitled to precedence over the other Judges present shall preside. 58 V. c. 12, s. 17.

Sittings of the Court of Appeal.

21. The Court of Appeal shall, subject to the provisions of section 62 of this Act, hold its sittings at the City of Toronto at such times and for such periods as the acting Judges thereof for the time being, or a majority of them, may deem necessary or convenient for the speedy despatch of business. 58 V. c. 12, s. 18.

OATH OF JUSTICES.

Oath of office.

22. The oath to be taken by the Judges to be hereafter appointed shall be the following:

"I do solemnly and sincerely promise and swear, that I will duly and faithfully, and to the best of my skill and knowledge, execute the powers and trusts reposed in me as
58 V. c. 12, s. 19. ; so help me God."

23. The oath is to be administered to the Chief Justices and the Chancellor by the Lieutenant-Governor in Council, and to the Justices of the High Court, other than the Chief Justices, in presence of the President of the High Court; and to the Justices of the Court of Appeal in open Court by the Chief Justice of Ontario, unless the Lieutenant-Governor in any of such cases shall otherwise direct. 58 V. c. 12, s. 20.

Administra-
tion of oath.

SEALS OF THE COURT OF APPEAL AND OF THE HIGH COURT.

24. The seals heretofore, from time to time, in use in and for the Court of Appeal and the High Court, shall be deemed to have been the proper seals of the said Courts respectively, and shall so continue until another seal is authorized by the Lieutenant-Governor in Council for either of the said Courts; and any seal so authorized may be afterwards changed by the Lieutenant-Governor in Council; and the seal from time to so authorized shall be the seal of the Court for which it is authorized and by which its proceedings shall be certified and authenticated. 44 V. c. 5, s. 8; 59 V. c. 18, s. 9.

Seals of Court
of Appeal and
High Court.

JURISDICTION OF HIGH COURT.

25. The High Court shall be a Superior Court of Record of original jurisdiction, and shall, subject as in this Act mentioned, possess all such powers and authorities, as by the law of England, are incident to a Superior Court of civil and criminal jurisdiction; and shall have, use and exercise all the rights, incidents and privileges of a Court of Record, and all other rights, incidents and privileges as fully to all intents and purposes as the same were on the 5th day of December, 1859, used, exercised and enjoyed by any of Her Majesty's Superior Courts of Common Law at Westminster in England, and may and shall hold plea in all and all manner of actions and causes as well criminal as civil, and may and shall proceed in such actions and causes by such process and course as are provided by law, and as shall tend with justice and despatch to determine the same; and may and shall hear and determine all issues of, law and may and shall also hear and (with or without a jury, as provided by law) determine all issues of fact that may be joined in any such action or cause, and judgment thereon give, and execution thereof award in as full and ample a manner as might, at the said date, be done in Her Majesty's Courts of Queen's Bench, Common Bench, or, in matters which regard the Queen's revenue (including the condemnation of contraband or smuggled goods), by the Court of Exchequer in England. 58 V. c. 12, s. 21.

Jurisdiction of
High Court.

26. The High Court shall also, subject as in this Act mentioned, have the like jurisdiction and powers as by the laws of England were on the 4th day of March, 1837, possessed by the Court of Chancery in England, in respect of the matters hereinafter enumerated, that is to say:

Equitable
jurisdiction.

1. In all cases of fraud and accident :
2. In all matters relating to trusts, executors and administrators, copartnership and account, mortgages, awards, dower, infants, idiots, lunatics and their estates ;
- 3 To stay waste ;
4. To compel the specific performance of agreements ;
5. To compel the discovery of concealed papers or evidence, or such as may be wrongfully withheld from the party claiming the benefit of the same ;
6. To prevent multiplicity of suits ;
7. To decree the issue of Letters Patent from the Crown to rightful claimants ;
8. To repeal and avoid Letters Patent issued erroneously or by mistake, or improvidently, or through fraud. 58 V. c. 12, s. 22.

Rules of decision in such cases.

27. The rules of decision in the said matters in the last preceding section mentioned shall, except where otherwise provided, be the same as governed the Court of Chancery in England, in like cases, on the 4th day of March, 1837. 58 V. c. 12, s. 23.

Jurisdiction in cases where formerly no adequate remedy at law.

28. The High Court shall have the like jurisdiction and power as the Court of Chancery in England possessed on the 10th day of June, 1857, as a Court of Equity to administer justice in all cases in which there existed no adequate remedy at law. 58 V. c. 12, s. 24.

Jurisdiction in matters of revenue.

29. The High Court shall have the like equitable jurisdiction in matters of revenue as the Court of Exchequer in England possessed on the 18th day of March, 1865. 58 V. c. 12, s. 25.

Relief against forfeiture for breach of covenant to insure in certain cases. Imp. Act, 22-23 V. c. 35, s. 4.

30. The High Court shall have power to relieve against a forfeiture for breach of a covenant or condition in any lease to insure against loss or damage by fire, where no loss or damage by fire has happened, and the breach has, in the opinion of the Court, been committed through accident or mistake, or otherwise without fraud or gross negligence, and there is an insurance on foot at the time of the application to the Court in conformity with the covenant to insure, upon such terms as to the Court may seem fit. 58 V. c. 12, s. 26.

When relief is granted, the same to be recorded. Imp. Act, 22-23 V. c. 35, s. 5.

31. The Court, where relief is granted, shall direct a record of such relief having been granted to be made by indorsement on the lease or otherwise. 58 V. c. 12, s. 27.

To what leases preceding provisions

32. The preceding two sections shall be applicable in the case of leases for a term of years absolute, or determinable on

a life or lives or otherwise, and also in the case of a lease for the life of the lessee or the life or lives of any other person or persons. 58 V. c. 12, s. 28.

33. In any action or proceeding in the High Court for partition or sale of the estate of joint tenants, tenants in common or co-partners, where any of the persons interested in the lands whereof partition or sale is sought are unknown to the plaintiff, or have not been heard of for three years or upwards, the Court shall have the same jurisdiction that, in proceedings under *The Partition Act*, it possesses for the purpose of binding the interests of such persons and dealing with the estate of such of them as by reason of long continued absence may reasonably be believed to be dead; and the like proceedings may be taken in such action or proceeding for the said purposes as might be taken upon a petition under the said Act; and every deed or vesting order made in any such action or proceeding shall have the same effect as a deed or vesting order made in proceedings under the said Act. 58 V. c. 12, s. 29.

Jurisdiction
in partition.

Rev. Stat.
c. 123.

34. The High Court shall have jurisdiction to grant alimony to any wife who would be entitled to alimony by the law of England, or to any wife who would be entitled by the law of England to a divorce and to alimony as incident thereto, or to any wife whose husband lives separate from her without any sufficient cause and under circumstances which would entitle her, by the law of England, to a decree for restitution of conjugal rights; and alimony when granted shall continue until the further order of the Court. 58 V. c. 12, s. 30.

Jurisdiction
in alimony.

35. An order or judgment for alimony may be registered in any Registry Office in Ontario, and the registration shall, so long as the order or judgment registered remains in force, bind the estate and interest of every description which the defendant has in any lands in the County or Counties where the registration is made, and operate thereon in the same manner and with the same effect as the registration of a charge by the defendant of a life annuity on his lands. 58 V. c. 12, s. 31.

Judgment for
alimony may
be registered
and thus bind
lands.

36. In every case in which the Court has authority to order the execution of a deed, conveyance, transfer or assignment of any property, real or personal, the Court may by order vest such real or personal estate in such person or persons, and in such manner, and for such estates, as would be done by any such deed, conveyance, assignment or transfer if executed; and thereupon the order shall have the same effect as if the legal or other estate or interest in the property had been actually conveyed, by deed or otherwise, for the same estate or interest, to the person in whom the same is so ordered to be vested, or in the case of a chose in action, as if such chose in action had been actually assigned to such last-mentioned person. 58 V. c. 12, s. 32.

Vesting order,
effect of.

Jurisdiction of High Court in respect to settlement of estates of infants, and special cases.

37. The High Court shall have the same jurisdiction as the Court of Chancery in England had on the eighteenth day of March, 1865, in regard to enabling infants, with the approbation of the Court, to make binding settlements of their real and personal estate on marriage; and in regard to questions submitted for the opinion of the Court in the form of special cases on the part of such persons, as may by themselves, their committees or guardians, or otherwise, concur therein. 58 V. c. 12, s. 33 (1).

The Court may try the validity of wills.

38. The High Court shall have jurisdiction to try the validity of last wills and testaments, whether the same respect real or personal estate, and whether probate of the will has been granted or not, and to pronounce such wills and testaments to be void for fraud and undue influence or otherwise, in the same manner and to the same extent as the Court has jurisdiction to try the validity of deeds and other instruments. 58 V. c. 12, s. 34.

Powers of High Court as to removal of executor or administrator.

39.—(1) The High Court may remove an executor or administrator upon the same grounds as such Court may remove any other trustee, and may appoint some other proper person or persons to act in the place of the executor or administrator so removed.

(2) The order may be made upon the application of any executor or administrator desiring to be relieved from the duties of the office, or of any executor or administrator complaining of the conduct of a co-executor or co-administrator, or of any person interested in the estate of the deceased.

(3) Subject to any rules to be made under this Act the practice in force for the removal of any other trustee shall be applicable to proceedings to be taken in the High Court under this section.

(4) Where the executor or administrator removed is not a sole executor or administrator the Court need not, unless it sees fit, appoint any person to act in the room of the person removed, and if no such appointment is made the rights and estate of the executor or administrator removed shall pass to the remaining executor or administrator as if the person so removed had died.

Executor of an executor.

(5) The executor of any person appointed an executor under this section shall not by virtue of such executorship be an executor of the estate of which his testator was appointed executor under this section, whether such person acted alone or was the last survivor of several executors.

Order for removal.

(6) A certified copy of the order of removal shall be filed with the Surrogate Clerk and another copy with the Registrar of the Surrogate Court by which probate or administration was granted, and such officers shall, at or upon the entry of the

grant in the registers in their respective offices, make in red ink a short note giving the date and effect of the order, and shall also make a reference thereto in the index of the register at the place where such grant is indexed. 59 V. c. 18, s. 4.

40. The High Court shall also have jurisdiction—

Jurisdiction.

1. In matters testamentary as provided in sections 33 to 35 inclusive of *The Surrogate Courts Act*.

In matters testamentary.
Rev. Stat.
c. 59.

2. On any appeal from the judgment or decision of the Commissioners under *The Act to Prevent Trespasses to Public Lands*, as provided in the said Act.

Appeals against judgment of commissioners under Rev. Stat. c. 33.

3. In respect of lunatics and infants and their property and estates, as provided by *The Act respecting Lunatics* and *The Act respecting Infants*.

Lunatics and infants.
Rev. Stats.
cc. 65 and 168.

4. In respect of guardians and trustees, as provided by *The Act respecting Infants*.

Testamentary guardians.
Rev. Stat.
c. 168.

5. In respect of partition and sale of real estate as provided in *The Partition Act*. 58 V. c. 12, s. 35.

Partition.
Rev. Stat.
c. 123.

6. In respect of leases and sales of settled estates, as provided in *The Settled Estates Act*. 58 V. c. 20, s. 2 (5).

Settled Estates.
Rev. Stat.
c. 71.

41. The High Court shall have, generally, all the jurisdiction which, prior to the 22nd day of August, 1881, was vested in, or capable of being exercised by, the Court of Queen's Bench, Court of Chancery, Court of Common Pleas, and Courts of Assize, Oyer and Terminer, and Gaol Delivery (whether created by Commission or otherwise) and the High Court shall be deemed to be and shall be a continuation of the said Courts respectively (subject to the provisions of this Act) under the said name of "The High Court of Justice for Ontario." 58 V. c. 12, s. 36.

General jurisdiction.

42. The jurisdiction of the High Court shall include (subject to the exceptions hereinafter contained) the jurisdiction which at the commencement of this Act, was vested in or capable of being exercised by the Judges of the said Courts respectively, sitting in Court or Chambers, or elsewhere, when acting as Judges in pursuance of any statute or law; and all powers given to any such Court, or to any such Judges, by any statute; and also all ministerial powers, duties and authorities, incident to any and every part of the jurisdiction. 58 V. c. 12, s. 37.

Existing jurisdiction of Judges continued.

43. Every Judge of the High Court shall have, use and exercise all the rights, incidents and privileges of a Judge of a Court of Record and all other rights, incidents and privileges

Rights and privileges of Judges.

as fully to all intents and purposes as the same were, prior to the fifth day of December, 1859, used, exercised or enjoyed by any of the Judges of any of Her Majesty's Superior Courts of Common Law at Westminster. 58 V. c. 12, s. 38.

A Judge to sit in Chambers.

44. The Judges of the High Court shall, in rotation or otherwise, as they may agree among themselves, sit in Chambers or elsewhere, and there transact any such business as may be transacted by a single Judge out of Court, whether such business be in the Division of the High Court to which such Judge is attached or in another Division, subject to the right of appeal as provided in this Act and the Rules from time to time in force. 58 V. c. 12, s. 39.

Anyone while acting as Judge of Assizes in Toronto, may act as Judge in Chambers.

45. Any person sitting or acting as Judge at any Assizes or sittings of the High Court for the trial of causes, matters, and issues, in the City of Toronto, may, while so sitting or acting as such Judge, or while the Assizes or sittings last, act as a Judge in Chambers in all matters as if he were a Judge of the High Court. 58 V. c. 12, s. 40.

Anyone sitting as Judge of Assize may during sittings act as Judge in Chambers.

46. Any person acting as a Judge at any Assizes or sittings of the High Court for the trial of causes, matters and issues, may, in and for the County in which he is acting, and while the sittings of the said Court last, act as a Judge in Chambers in all matters entered for trial before him, as if he were a Judge of the High Court. 58 V. c. 12, s. 41.

Jurisdiction to be exercised in name of High Court.

47. The several jurisdictions vested in the said High Court, shall not be exercised except in the name of the said High Court as provided by this Act, save as otherwise in this Act provided. 58 V. c. 12, s. 42.

Jurisdiction to be exercised according to rules of Court.

48. The jurisdiction of the High Court of Justice and the Court of Appeal, respectively, shall be exercised (so far as regards procedure and practice) in the manner provided by this Act, or by Rules and Orders of Court now in force or to be made pursuant to this Act; and where no special provisions are contained in this Act or in any such Rules or Orders with reference thereto, it shall be exercised as nearly as may be in the same manner as prior to the 22nd day of August, 1881. 58 V. c. 12, s. 43.

JURISDICTION OF THE COURT OF APPEAL.

Jurisdiction of Court of Appeal.

49. The Court of Appeal shall be a Superior Court of Record and shall have appellate jurisdiction in civil and criminal cases; and in civil cases shall have jurisdiction and power to hear and determine appeals from any judgment or order, save as hereinafter mentioned, of the High Court, or of any Judges thereof, subject to the provisions of this Act, and to such Rules and Orders of Court for regulating the terms and

conditions on which appeals shall be allowed, as are now in force or may be made pursuant to this Act. 58 V. c. 12, s. 44.

50. The Court of Appeal shall also have jurisdiction as provided by *The Ontario Voters' Lists Act*, *The Ontario Election Act* and *The Ontario Controverted Elections Act*. 58 V. c. 12, s. 45. Additional jurisdiction. Rev. Stats. cc. 7, 9 and 11.

51. The Court of Appeal shall have power to quash proceedings in cases brought before it, in which appeal does not lie, or where such proceedings are taken against good faith. 58 V. c. 12, s. 46. May quash proceedings : when.

52. The Court of Appeal shall have power to dismiss an appeal, or give any judgment and make any decree or order which ought to have been made, and to direct the issue of any process, or the taking of any proceedings in the Court below, or to award restitution and payment of costs, or to make such further or other order as the case may require. 58 V. c. 12, s. 47. To make whatever order may be required.

53. The powers of the Court of Appeal may be exercised, notwithstanding that the appeal is brought against part only of the judgment of the Court below ; and may be exercised in favor of all or any of the respondents or parties, although such respondents or parties may not have appealed from, or complained of the judgment. 58 V. c. 12, s. 48. Powers of Court of Appeal.

54. In any cause or matter pending before the Court of Appeal any direction incidental thereto, not involving the decision of the appeal, may be given by a single Judge of the Court of Appeal ; and a single Judge of the Court of Appeal may at any time during vacation make any interim order to prevent prejudice to the claims of any parties pending an appeal, as he may think fit ; but every such order made by a single Judge may be discharged or varied by the Court of Appeal or a Divisional Court thereof. 58 V. c. 12, s. 49. Power of a single Judge in Court of Appeal.

55. For all the purposes of and incidental to the hearing and determination of any such appeal, and the amendment, execution, and enforcement of any judgment or order made on such appeal, and for the purpose of every other authority given to the Court of Appeal by this Act, the said Court of Appeal shall have all the power, authority and jurisdiction by this Act vested in the High Court. 58 V. c. 12, s. 50. On an appeal Court of Appeal to have all powers of High Court.

56. The jurisdiction and power of the Court of Appeal, in respect of the said matters and all others, shall be and are subject to the provisions of this Act, and to such Rules and Orders of Court for regulating the terms and conditions on which such appeals shall be allowed as are now in force or as may be made pursuant to this Act. 58 V. c. 12, s. 51. Jurisdiction subject to rules, etc.

RULES OF LAW.

Law and equity to be concurrently administered.

57. In every civil cause or matter commenced in the High Court of Justice; law and equity shall be administered by the High Court and the Court of Appeal respectively according to the rules following :

Equitable relief.

1. If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever asserted by any defendant or respondent in such cause or matter, or to any relief founded upon a legal right which heretofore could only have been given by a Court of Equity, the said Courts respectively, and every Judge thereof shall give to such plaintiff or petitioner such and the same relief as ought to have been given by the Court of Chancery in a suit or proceedings for the same or the like purposes properly instituted before the passing of *The Ontario Judicature Act, 1881*.

44 V. c 5.

Jurisdiction as to validity of provincial statute.

2. The High Court shall have jurisdiction to entertain an action at the instance of either the Attorney-General for the Dominion, or the Attorney-General of this Province for a declaration as to the validity of any statute, or any provision in any statute of this Legislature, though no further relief should be prayed or sought ; and the action shall be deemed sufficiently constituted if the two officers aforesaid are parties thereto. A judgment in the action shall be appealable like other judgments of the said court.

Relief against penalties, etc.

3. Subject to appeal as in other cases, the High Court shall have power to relieve against all penalties and forfeitures, and in granting such relief to impose such terms as to costs, expenses, damages, compensation and all other matters as the Court thinks fit.

Appointment under power.

4. No appointment, which after the 25th day of March, 1886, is made in exercise of a power to appoint any property, real or personal, among several objects, shall be adjudged to be invalid on the ground that any object of the power has been altogether excluded, and an appointment shall be valid and effectual notwithstanding that one or more of the objects shall not thereby or in default of appointment take a share or shares of the property which is subject to the power.

But nothing in this subsection shall prejudice or affect any provision in any deed, will or other instrument creating a power, which shall declare the amount

or the share or shares from which no object of the power shall be excluded, or shall declare some one or more object or objects of the power who shall not be excluded.

5. No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby, and the Court may make binding declarations of right, whether any consequential relief is or could be claimed or not. Declaratory judgments and orders.
6. If any defendant claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim asserted by any plaintiff or petitioner in such cause or matter, or alleges any ground of equitable defence to any claim of the plaintiff or petitioner in such cause or matter, the said Courts respectively, and every Judge thereof, shall give to every equitable estate, right or ground of relief so claimed, and to every equitable defence so alleged, such and the same effect, by way of defence against the claim of such plaintiff or petitioner, as the Court of Chancery ought to have given if the same or the like matters had been relied on by way of defence in any suit or proceedings instituted in that Court for the same or the like purposes before the passing of *The 44 V. c. 5. Ontario Judicature Act, 1881.*
7. The said Courts respectively, and every Judge thereof, shall also have power to grant to any defendant in respect of any equitable estate or right or other matter of equity, and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant shall have properly claimed by his pleading, and as the said Courts respectively, or any Judge thereof, might have granted in any suit instituted for that purpose by the same defendant against the same plaintiff or petitioner; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to any rule of Court or any order of the Court, as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose; and every person served with any such notice shall thenceforth be deemed a party to such cause or matter, with the same rights in Relief which may be granted to defendants.

respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant.

Courts to take notice of equitable rights and duties.

8. The said Courts respectively, and every Judge thereof shall recognize and take notice of all equitable estates, titles and rights, and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the Court of Chancery would have recognized and taken notice of the same in any suit or proceedings duly instituted therein before the passing of *The Ontario Judicature Act, 1881*.

44 V. c. 5.

Restraining proceedings.

9. No cause or proceeding at any time pending in the High Court of Justice or before the Court of Appeal shall be restrained by prohibition or injunction; but every matter of equity on which an injunction against the prosecution of any such cause or proceeding might have been obtained, prior to *The Ontario Judicature Act, 1881*, either unconditionally or on any terms or conditions, may be relied on by way of defence thereto:

Provided always, that nothing in this Act contained shall disable either of the said Courts from directing a stay of proceedings in any cause or matter pending before it, if it shall think fit; and any person, whether a party or not to any such cause or matter, who would have been entitled, prior to *The Ontario Judicature Act, 1881*, to apply to any Court to restrain the prosecution thereof, or who may be entitled to enforce, by attachment or otherwise, any judgment, decree, rule or order, contrary to which all or any part of the proceedings in such cause or matter may have been taken, shall be at liberty to apply to the said Courts respectively, by motion in a summary way, for a stay of proceedings in such cause or matter either generally, or so far as may be necessary for the purposes of justice; and the Court shall thereupon make such order as shall be just.

Stay of proceedings if action for same cause is pending out of Ontario.

10. If any action is brought in the High Court for any cause of action for which any suit or action has been brought and is pending between the same parties or their representatives in any place or country out of Ontario, the Court or any Judge thereof may make an order to stay all proceedings in the High Court until satisfactory proof is offered to the Court or Judge that the suit or action so brought in such other place or country out of Ontario is determined or discontinued.

11. Subject to the aforesaid provisions for giving effect to equitable rights and other matters of equity in manner aforesaid, and the other express provisions of this Act, the said Courts respectively, and every Judge thereof, shall recognize and give effect to all legal claims and demands, and all estates, rights, duties, obligations and liabilities existing by the common law or created by any statute, in the same manner as the same would have been recognized and given effect to prior to *The Ontario Judicature Act, 1881*, by any of the Courts then existing and whose jurisdiction is now vested in the High Court.

Giving effect to legal claims.

12. The High Court of Justice and the Court of Appeal respectively, in the exercise of the jurisdiction vested in them by this Act in every cause or matter pending before them respectively, shall have power to grant, and shall grant, either absolutely or on such reasonable terms and conditions as to them shall seem just, all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that, as far as possible, all matters so in controversy between the said parties respectively may be completely and finally determined, and all multiplicity of legal proceedings concerning any of such matters avoided. 58 V. c. 12, s. 52; 60 V. c. 15, Sched. A (64).

Multiplicity of proceedings to be avoided. All matters in controversy to be determined in one proceeding.

58. The law to be administered in Ontario, as to the matters next hereinafter mentioned, shall be as follows :

Rules of law upon certain points.

1. Subject to the provisions of section 32 of *The Trustee Act*, no claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. 58 V. c. 12, s. 53 (1); 59 V. c. 18, Sched. (4).

Statutes of Limitation not to apply to express trusts. Rev. Stat. c. 129.

2. An estate for life without impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste, unless an intention to confer such right shall expressly appear by the instrument creating such estate.

Equitable waste.

3. There shall not be any merger by operation of law only of any estate, the beneficial interest in which would not prior to *The Ontario Judicature Act, 1881*, have been deemed merged or extinguished in equity.

Merger.

Actions for possession of land by mortgagor

4. A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into receipt of the rents and profits thereof shall have been given by the mortgagee, may sue for such possession, or sue or distrain for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person, and in that case he may sue or distrain jointly with such other person. 58 V. c. 12, s. 53 (2-4).

Assignments of debts and choses in action.

5. Any absolute assignment, made on or after the 31st day of December, 1897, by writing under the hand of the assignor (not purporting to be by way of charge only) of any debt or other legal chose in action of which express notice in writing shall have been given to the debtor, trustee or other person from whom the assignor would have been entitled to receive or claim such debt or chose in action, shall be effectual in law (subject to all equities which would have been entitled to priority over the right of the assignee if this section had not been enacted) to pass and transfer the legal right to such debt or chose in action from the date of such notice and all legal and other remedies for the same and the power to give a good discharge for the same without the concurrence of the assignor. 60 V. c. 15, s. 5.

Where several claimants under assignments of debts or choses in action.

6. In case of an assignment of a debt or other chose in action, if the debtor, trustee or other person liable in respect of the debt or chose in action shall have had notice that such assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or chose in action, he shall be entitled, if he thinks fit, to call upon the several persons making claim thereto to interplead concerning the same, or he may, if he thinks fit, pay the same into the High Court under and in conformity with the provisions of law for the relief of trustees.

Stipulations not of the essence of contracts.

41 V. c. 5.

7. Stipulations in contracts, as to time or otherwise, which would not before the passing of *The Ontario Judicature Act, 1881*, have been deemed to be or to have become of the essence of such contracts in a Court of equity, shall receive in all Courts the same construction and effect as they would, prior to the passing of said Act, have received in equity.

8. Part performance of an obligation, either before or after a breach thereof, when expressly accepted by the creditor in satisfaction, or rendered in pursuance of an agreement for that purpose, though without any new consideration, shall be held to extinguish the obligation. Satisfaction of obligation by performance in part.
9. A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the Court, in all cases in which it shall appear to the Court to be just or convenient that such order should be made; and any such order may be made either unconditionally, or upon such terms and conditions as the Court shall think just; and if an injunction is asked, either before, or at, or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass, such injunction may be granted, if the Court shall think fit, whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise, or (if out of possession) does or does not claim a right to do the act sought to be restrained under any color of title; and whether the estates claimed by both or by either of the parties are legal or equitable. Injunctions and receivers.
10. In all cases in which the Court has jurisdiction to entertain an application for an injunction against a breach of any covenant, contract or agreement or against the commission or continuance of any wrongful act, or for the specific performance of any covenant, contract, or agreement, the court, if it thinks fit, may award damages to the party injured either in addition to or in substitution for such injunction or specific performance, and such damages may be ascertained in such manner as the court may direct, or the court may grant such other relief as it may deem just. Court may award damages, etc.
11. An order of the Court under any statutory or other jurisdiction shall not, as against a purchaser, whether with or without notice be invalidated on the ground of want of jurisdiction, or of want of any concurrence, consent, notice or service. Purchaser not affected by irregularities in orders of Court.
12. In questions relating to the custody and education of infants, the rules of equity shall prevail. Infants.
13. Generally in all matters not hereinbefore particularly mentioned, in which there is any conflict or variance between the rules of equity and the rules of the common law with reference to the same matter, the rules of equity shall prevail. 58 V. c. 12, s. 53 (5-12). Cases of conflict not already mentioned.

Rules of law
to apply to
all Courts.

59. The several rules of law enacted and declared by this Act shall be in force and receive effect in all Courts whatsoever in Ontario, so far as the matters to which such rules relate shall be respectively cognizable by such Courts. 58 V. c. 12, s. 54.

CONSTITUTIONAL QUESTIONS.

Notice to be
given to
Minister of
Justice and
Attorney-
General of
Ontario before
any Act is
declared
invalid.

60.—(1) When in any action or other proceeding, the constitutional validity of any Act of the Parliament of Canada or of the Legislature of Ontario comes into question, the same shall not be adjudged to be invalid until after notice thereof has been served on the Minister of Justice and the Attorney-General of Ontario, or at their offices respectively.

(2) The notice in such case shall be entitled in the cause; shall state what the Act or section of an Act is which is in question, and the day on which the case or the said question is to be argued; and shall give such other particulars as are necessary to show the constitutional point proposed to be argued.

(3) The notice shall be served six days before the day of the argument unless a Judge authorizes a shorter notice.

(4) Upon every such question the said Minister of Justice and the said Attorney-General shall be entitled as of right to be heard, either in person or by counsel, notwithstanding that the Crown is not a party to the action or proceeding. 58 V. c. 12, s. 55.

SITTINGS OF COURT AND DISTRIBUTION OF BUSINESS.

Abolition of
terms.

61. The legal year shall not be divided into terms so far as relates to the administration of justice; and there shall not be terms applicable to any sitting or business of the High Court, or of any Commissioners to whom any jurisdiction may be assigned under this Act, or of any Commissioners of Assize; but in all cases in which, under the law existing prior to the 22nd day of August, 1881, the terms into which the legal year was divided were used as a measure for determining the time at or within which any act was required to be done, the same may continue to be referred to for the same or the like purpose, unless and until provision is otherwise made by any lawful authority. 58 V. c. 12, s. 56.

Sittings of
Courts.

62.—(1) Subject to the Rules of Court, the High Court of Justice, and the Court of Appeal, and the Judges thereof respectively, or any such Commissioners as aforesaid, shall have power to sit and act, at any time and at any place, for the transaction of any part of the business of such Courts respectively, or of such Judges or Commissioners, or for the discharge of any duty which by any statute, or otherwise, is required to be discharged.

(2) Subject to the preceding provision the Divisional Sit-
tings of the High Court shall be held at the City of Toronto.
58 V. c. 12, s. 57.

Where Divi-
sional Sittings
to be held.

63. The Lieutenant-Governor in Council may from time to time, upon any report or recommendation of the council of Judges of the Supreme Court hereinafter mentioned, make, revoke or modify, orders regulating the vacations to be observed by the High Court of Justice and the Court of Appeal, and in the offices of the said Courts respectively; and any Order in Council made pursuant to this section shall, so long as it continues in force, be of the same effect as if it were contained in this Act; and Rules of Court may be made for carrying the same into effect in the same manner as if such Order in Council were part of this Act. 58 V. c. 12, s. 58.

Vacations.

64. Commissions of assize or any other commissions, either general or special, may be issued, by the proper authority, assigning to the persons to be therein named, the duty of trying and determining within any place or district specially fixed for that purpose by such commission, any causes or matters, or any questions or issues of fact or of law, or partly of fact and partly of law, in any cause or matter, depending in the said High Court; or the exercise of any civil or criminal jurisdiction capable of being exercised by the said High Court; and any commission so issued shall be of the same validity as if it were enacted by the body of this Act; and any Commissioner or Commissioners shall, when engaged in the exercise of any jurisdiction so assigned to him or them, be deemed to constitute a Court of the said High Court. 58 V. c. 12, s. 59.

Commissions
of assize and
other com-
missions.

65.—(1) Every action and proceeding in the High Court and all business arising out of the same, except as hereinafter provided, shall, so far as is practicable and convenient, be heard, determined, and disposed of, before a single Judge.

Business to be
disposed of by
one Judge as
far as
practicable.

(2) A Judge sitting elsewhere than in a Divisional Court, is to decide all questions coming properly before him, and is not to reserve any case, or any point in a case, for the consideration of a Divisional Court.

Judge not to
reserve ques-
tions.

(3) In all such cases any Judge sitting in Court shall be deemed to constitute a Court. 58 V. c. 12, s. 60.

Judge to con-
stitute a
court.

66. All business which may from time to time be so ordered by Rules of Court shall be transacted and disposed of by Divisional Courts of the High Court, which shall for that purpose exercise all or any part of the jurisdiction of the said High Court. 58 V. c. 12, s. 61.

Business of
Divisional
Courts of the
High Court.

67.—(1) Subject to Rules of Court, the following proceedings and matters shall be heard and determined before a Divisional Court of the High Court:

Certain mat-
ters to be
heard before
Divisional
Court.

When statute declares decision of Court to be final.

(a) Proceedings directed by any statute to be taken before the Court in which the decision of the Court is final.

Habeas corpus cases.

(b) Cases of *habeas corpus* in which the Judge directs that a motion for the writ, or the writ, be made returnable before a Divisional Court.

Applications for new trials in jury cases.

(c) Subject to section 76 any application for a new trial in the High Court when the action has been tried with a jury.

By agreement of parties.

(d) Other cases where all parties agree to the same being heard before a Divisional Court.

(2) Nothing in this section contained shall be construed so as to take away or limit the power of a single Judge to hear and determine any such proceedings or matters in any case in which he has heretofore had power to do so, or so as to require any interlocutory proceedings therein heretofore taken before a single Judge to be taken before a Divisional Court. 58 V. c. 12, s. 62; c. 13, s. 12.

Queen's Bench, Chancery and Common Pleas Divisions not to sit as such.

68. The Queen's Bench, Chancery, and Common Pleas Divisions of the High Court shall not sit or give judgments as such Divisions; and there shall not be Divisional Courts of any of the said Divisions; but the Divisional Courts shall be Divisional Courts of the High Court, without reference to the said Divisions. 58 V. c. 12, s. 63; c. 13, s. 10; 59 V. c. 18, Sched. (5).

Sittings of Divisional Courts.

69. The Judges of the High Court or a majority of them, may from time to time pass such rules to regulate the sittings of the Divisional Court as may be found necessary for the due despatch of business; provided always that there shall be at least a monthly sitting of such Court except during vacation. 60 V. c. 15, Sched. A (65).

Proviso.

Divisional Courts, how composed.

70.—(1) Every Divisional Court of the High Court shall be composed of three Judges, unless from illness or other unavoidable cause a third Judge cannot be obtained, in which case it may be composed of two members, provided that in case of divided opinion upon any matter argued the same shall at the election of either party be re-argued before a Court of three members. 58 V. c. 12, s. 66 (1); c. 13, s. 15, part; 59 V. c. 18, s. 10.

No Judge to hear appeal from his own judgment.

(2) No Judge shall sit as a Judge on the hearing of an appeal from any judgment or order made by himself; but subject to this provision every Judge of the High Court shall be qualified and empowered to sit in any of such Divisional Courts. 58 V. c. 12, s. 66 (2); c. 13, s. 15, part.

Judges to arrange sittings.

(3) The Judges of the High Court or a majority of them may arrange in what order the Judges of the High Court shall hold the said sittings. 58 V. c. 12, s. 66 (3); c. 13, s. 16 (3).

(4) If no arrangement is made, or subject to any arrangement so made, the presiding Judge shall wherever practicable be a President of one of the Divisions of the High Court; and the Presidents shall preside at the said monthly sittings successively in order of their seniority; and two other Judges of the High Court in rotation and in order of seniority shall be associated with one of the said Presidents in holding every such sittings. 58 V. c. 12, s. 66 (4); c. 13, s. 16 (4).

(5) In the absence of a President of a Division the senior Judge present shall preside. 58 V. c. 12, s. 66 (5).

(6) Nothing in this Act is to be construed as preventing any Judge from sitting in a Divisional Court in the absence of the Judge whose turn it may be to sit; and nothing in this Act is to be construed as making irregular any sitting or any proceeding thereat by reason of the Court not being constituted as hereinbefore mentioned, provided that the sitting is held by the proper number of Judges, not including the Judge from whose judgment or order an appeal is heard.

(7) Where a Judge has heard a case in a Divisional Court and is not present at the time of the judgment being delivered, his written judgment may be read by one of the other Judges of such Divisional Court, and shall have the same effect as if he were present. 58 V. c. 12, s. 66 (6-7); c. 13, s. 16 (6, 7).

71. All such arrangements as may be necessary or proper for the holding of any of the Courts, or the transaction of business, or assignment from time to time of Judges to hold such Courts, or to transact such business, shall be made by the Judges of the High Court or a majority of them. 58 V. c. 12, s. 67. Arrangements for transaction of business.

APPEALS.

72. No order made by the High Court or any Judge thereof, by the consent of parties, or as to costs only which by law are left to the discretion of the Court, shall be subject to any appeal, except by leave of the Court or Judge making such order. 58 V. c. 12, s. 68. Certain orders not subject to appeal.

73. There shall be no appeal to a Divisional Court from any interlocutory order, whether made in Court or Chambers, in case prior to *The Ontario Judicature Act, 1881*, there would have been no relief from a like order by an application to a Superior Court; and there shall be no appeal to the Court of Appeal from any interlocutory order in case prior to *The Ontario Judicature Act, 1881*, there would have been no relief from a like order by an appeal to the Court of Appeal. Any doubt which may arise as to what orders, or judgments, are interlocutory, shall be determined by the Court of Appeal. 58 V. c. 12, s. 69. Appeals from interlocutory orders.

Only one
appeal to be
allowed.

74. There shall not be more than one appeal in this Province from any judgment or order made in any action or matter; save only at the instance of the Crown in a case in which the Crown is concerned; and save in certain other cases hereinafter specified. 58 V. c. 12, s. 70; c. 13, s. 2.

Appeals to Divisional Courts.

Appeals to a
Divisional
Court.

75. Subject to sections 72 and 73 of this Act, an appeal shall lie to a Divisional Court of the High Court, in the following cases:—

Order of single
Judge.

1. From any judgment or order of a Judge of the High Court in Court, whether at the trial or otherwise;

Master in
Ordinary.

2. From the Master in Ordinary except as to decisions or rulings upon questions of practice, or in his jurisdiction in Chambers;

Under Rev.
Stat. c. 55

3. From County Courts, as provided in *The County Courts Act*;

Under Rev.
Stat. c. 59, 168.

4. From Surrogate Courts or a Surrogate Judge, as provided in *The Surrogate Courts Act* and *The Act respecting Infants*;

Under Rev.
Stat. c. 60.

5. From Division Courts as provided in *The Division Courts Act*;

From District
Courts under
Rev. Stat.
c. 109.
Under Rev.
c. 109.

6. From Provisional Judicial District Courts, as provided in *The Unorganized Territories Act*;

7. From Stipendiary Magistrates, as provided in section 71 of *The Unorganized Territories Act*;

Under Rev.
Stat. c. 245.

8. From a Judge of a County Court upon an appeal from a conviction or order arising out of or under *The Liquor License Act*, as provided in the said Act;

Under Rev.
Stat. c. 141.

9. From a Judge of a County Court, as provided in *The Act respecting Water Privileges*;

Under Rev.
Stat. c. 142.

10. From a Judge of a County Court, or Stipendiary Magistrate, as provided in *The Act for protecting the Public Interest in Rivers, Streams, and Creeks*. 58 V. c. 12, s. 71 (3-11); c. 13, s. 11 (3-11); 59 V. c. 18, s. 3, Sched.(6); 60 V. c. 14, s. 88.

Appeals to the Court of Appeal.

When appeal
to lie to Court
of Appeal.

76. Subject to the exceptions and provisions contained in this Act, an appeal shall lie to the Court of Appeal from every judgment, order or decision of the High Court whether the judgment, order or decision was that of a Divisional Court or of a Judge in Court, and including cases tried with a jury where the appellant complains of the judgment and asks in the alternative for a new trial. 58 V. c. 12, s. 72; 59 V. c. 18, s. 13.

77.—(1) An appeal shall not lie from any judgment or order of a Divisional Court, except as hereinafter provided.

Appeals from Divisional Court.

(2) In case a party appeals to a Divisional Court of the High Court in a case in which an appeal lies to the Court of Appeal, the party so appealing shall not be entitled to afterwards appeal from the said Divisional Court to the Court of Appeal, but any other party to the action or matter may appeal to the Court of Appeal from the judgment or order of the Divisional Court. 58 V. c. 12, s. 73 (1, 2); c. 13, s. 13 (1, 2).

Party appealing to Divisional Court not to appeal, but other parties may.

(3) Except where an appeal lies under the preceding subsection from a Divisional Court to the Court of Appeal, an appeal to the Court of Appeal shall not lie from a judgment or order of a Divisional Court pronounced on an appeal in a cause or matter in the High Court to such Divisional Court except by special leave first obtained upon an application to such Divisional Court, or to the Court of Appeal or a Judge thereof. 58 V. c. 12, s. 73 (3), part; c. 13, s. 13 (3), part; 59 V. c. 18, Sched. (7).

Appeal on special leave to Court of Appeal.

(4) The granting or refusing of such leave shall be in the discretion of the Court or Judge applied to therefor, in view of all the circumstances: and in case of such leave being granted, such terms and conditions may be imposed as the Court or Judge sees fit; but such leave shall not be granted unless, besides being in the opinion of the Court or Judge a proper case for the granting of the leave, the case falls within one or more of the following cases, that is to say:—

Powers of Court or Judge on application for leave to appeal.

- (a) Where the matter in controversy on the proposed appeal exceeds the sum or value of \$1,000 exclusive of costs, or involves indirectly or otherwise that sum or value; or
- (b) Where such matter involves the validity of a patent; or
- (c) Where the judgment or order involves a question of law or practice on which there have been conflicting decisions or opinions by the High Court of Justice, or by Judges thereof; or
- (d) Where a judgment or order is in regard to a matter of practice, but affects the ultimate rights of parties to the action to the extent of the said sum or value; or
- (e) Where there are other sufficient special reasons for treating the case as exceptional and allowing a further appeal. 58 V. c. 12, s. 73 (4); c. 13, s. 13 (4).

Limitation of time for appealing.

78. Subject to the provisions of this Act all appeals from a judgment or order of the High Court shall be brought to hearing within one year from the date thereof, or within such

Time within which appeals from judgments must be brought to a hearing.

further time as the Court of Appeal or a Judge thereof, may allow. 58 V. c. 12, s. 74.

Time within which appeals from interlocutory orders must be brought to a hearing.

79. If the appeal is from an interlocutory order, then the appellant shall bring the same to a hearing within six months from the pronouncing of the same, or within such further time as the Court of Appeal or a Judge thereof may allow. 58 V. c. 12, s. 75.

Time to be reckoned from the judgment or order becoming absolute.

80. The time limited for appealing from a judgment or order, which does not become absolute upon the same being pronounced, shall be computed from the time when the same does become absolute. 58 V. c. 12, s. 76, part; 59 V. c. 18, Sched. (8).

EFFECT OF JUDICIAL DECISIONS.

Decision of Divisional Court of Appeal to be binding.

81.—(1) The decision of a Divisional Court of the Court of Appeal on a question of law or practice shall, unless overruled or otherwise impugned by a higher Court, be binding on the Court of Appeal and all Divisional Courts thereof, as well as on all other Courts and Judges and shall not be departed from in subsequent cases without the concurrence of the Judges who gave the decision, unless and until so overruled or impugned.

Decision of Court of co-ordinate authority to be binding.

(2) It shall not be competent for the High Court or any Judge thereof in any case arising before such Court or Judge to disregard or depart from a prior known decision of any Court or Judge of co-ordinate authority on any question of law or practice without the concurrence of the Judges or Judge who gave the decision; but if a Court or Judge deems the decision previously given to be wrong and of sufficient importance to be considered in a higher Court, such Court or Judge may refer the question to such higher Court. 58 V. c. 12, s. 79; c. 13, s. 9.

SITTINGS FOR TRIALS.

Sittings for trial of causes.

82.—(1) Subject to Rules of Court, as often in every year as the due despatch of business and the public convenience may require there shall be sittings of the High Court at every County Town for the trial of causes, matters and issues, whether legal or equitable, in all Divisions of the High Court, which are to be heard and determined by a Judge without a jury, and also for the trial of causes, matters and issues in all Divisions of the High Court which are to be tried with a jury, and for the trial of criminal matters and proceedings; and in case such first mentioned sittings are appointed at any county town for the same time and before the same Judge as jury cases, separate lists shall be made of the jury and non-jury cases, and the jury cases shall be first disposed of, unless the Judge sees fit to direct otherwise. 58 V. c. 12, s. 80 (1).

(2) The Judges of the High Court of Justice, or a majority of them, shall appoint the days upon which such sittings shall be held. 58 V. c. 12, s. 80 (2), part; 59 V. c. 18, Sched. (9).

83.—(1) Subject to Rules of Court, not less than two of such sittings shall be held at the County Town of every County and Union of Counties in each year. 58 V. c. 12, s. 81 (1). Sittings in each County.

(2) In the County of York, there shall in every year be held at the County Town of such County not less than three of such sittings, and also a fourth such sittings, unless the same is not required for the administration of justice, but if the said Judges, on enquiry, ascertain that such fourth sittings for any year is not required for the administration of justice, it shall not be necessary to hold the same or to appoint a day for holding the same. 58 V. c. 12, s. 81 (3); 59 V. c. 18, Sched. (11). York.

(3) In the Counties of Carleton, Wentworth and Middlesex, there shall, in every year be held at the County Town of each of the said Counties not less than three of such sittings. 58 V. c. 12, s. 81 (4). Carleton, Wentworth, Middlesex.

(4) In addition to the regular sittings to be held under subsection 1 of this section, a third such sittings may be appointed if the Judges of the High Court, or a majority of them, shall see fit for the trial of civil causes, matters and issues and criminal matters and proceedings, or of civil causes, matters and issues only, to be held at the County Town of any County in the Province. 58 V. c. 12, s. 81 (5); 59 V. c. 18, Sched. (12). Additional sittings.

84. The Judges of the High Court may appoint sittings of the High Court in any County in the Province, as often and at such times as they see fit, for the trial of causes which are to be tried by a Judge without a jury. 58 V. c. 12, s. 82; 59 V. c. 18, Sched. (13). Judges may appoint sittings in any county for issues to be tried without a jury.

85. The sittings of the High Court for the trial of civil causes, matters and issues in any County may, in the discretion of the Judges appointing the days therefor, or of the Judge who has been appointed to preside or is presiding thereat, be held separate and apart from the sittings for the trial of criminal matters and proceedings, either on the same day or on a different day. 58 V. c. 12, s. 83. Separate sittings may be held for civil and criminal matters.

86. Such sittings may, at the discretion of the Court or of the Judge who is to hold the same, be held in the court house of the county town in which the same are appointed to be held, or in such other place in the county town as the Judge selects, and the Judge shall in all respects have the same authority as a Judge formerly had when sitting at *nisi prius* in regard to the use of the court house, gaol and other buildings or apartments set apart in the County for the administration of justice. 58 V. c. 12, s. 84. Place in county towns where Court to be held.

Who may
preside.

87.—(1) Such sittings shall be presided over by one of the Judges of the Supreme Court, or in the absence of any such Judge by a retired Judge of the Supreme Court, or by a Judge of any County Court in Ontario, or by one of Her Majesty's Counsel learned in the law appointed for Upper Canada, or for the Province of Ontario, upon such Judge or Counsel being requested by a Judge of the Supreme Court to attend for that purpose.

Powers of pre-
siding Judge.

(2) Such Judge or Counsel while holding the sittings shall possess, exercise and enjoy all the powers and authorities of a Judge of the High Court, and in civil proceedings may reserve the giving of his decision on questions raised at the trial, and such decision shall have the like force and effect as the decision of a Judge of the High Court. 58 V. c. 12, s. 85.

Course to be
pursued by
the sheriff if
the Judge
does not
arrive on
the day
appointed for
opening
Court.

88. Where the Judge whose duty it is to hold any sittings of the High Court for the trial of civil causes, matters and issues and for the trial of other matters and proceedings within the jurisdiction of the Provincial Legislature, does not arrive in time, or is not able to open such Court on the day appointed for that purpose, the sheriff of the County in which such Court should be held, or, in his absence, his deputy, may, after the hour of six of the clock in the afternoon of such day, adjourn by his proclamation, the Court which should have been opened on that day, to an hour on the following day to be by him named, and so from day to day until the Judge arrives to open such Court, or until such sheriff receives other direction from the Judge in that behalf. 58 V. c. 12, s. 86.

Sittings to
commence at
one o'clock in
the afternoon.

89.—(1) No such sittings of the High Court for the trial of causes, matters and issues shall open earlier than one of the clock in the afternoon on the first day of the sittings, but this shall not prevent a non-jury trial from being begun before one of the clock with the consent of the parties. 58 V. c. 12, s. 87 (1).

Hours for
sittings.

(2) No such sittings shall begin before nine o'clock in the forenoon, nor, except for special reasons, extend beyond seven o'clock in the evening, with at least a half-hour's intermission at or near noon. An irregularity under this section shall not render any trial or other proceeding void. 58 V. c. 12, s. 87 (2); c. 13, s. 19.

Entering non-
jury actions
for trial.

90. All non-jury actions in any County may be entered for trial at any sittings of the High Court in such County, except in the County of York. 58 V. c. 12, s. 88; c. 13, s. 17.

General
docket after
sittings of
High Court
or Assizes.

91. At the sittings of the High Court or Assizes in any county town there shall be a general docket in addition to the docket of cases entered for trial, and such general docket may include all motions, petitions, proceedings and other matters which may be heard by a Judge in Court or in chambers in

any case where the solicitors consent, or where the matter in controversy arose in the County or where the party opposing or showing cause in the matter, or his solicitor, resides in the County. Such general docket shall be disposed of after the trial of causes. 58 V. c. 12, s. 89 ; c. 13, s. 18.

TRIAL OF HIGH COURT CASES IN COUNTY COURTS, AND COUNTY COURT CASES BEFORE HIGH COURT.

92—(1) All issues of fact and assessments of damages in the High Court relating to debt, covenant and contract, where the amount is liquidated, or ascertained by the signature of the defendant, may be tried and assessed in the County Court of the County where the trial is to take place, if the plaintiff desires it, unless a Judge of the High Court otherwise orders, and upon such terms as the Judge deems meet.

Certain cases in High Court may be tried in the County Court of the county in which the *venue* is laid.

(2) In such case the action shall be entered for trial, notice of trial shall be given, and the trial take place in the same way as in ordinary cases in such County Court.

(3) In any action in the High Court, in which the amount of the demand is ascertained by the signature of the defendant, and in any action for any debt in which a Judge of the said High Court is satisfied that the case may be properly tried in a County Court, any Judge of the High Court may order that such case shall be tried in the County Court of the County the county town of which is named as the place of trial; and such action shall be tried there accordingly, and the record shall be made up as in other cases, and the order directing the case to be tried in the County Court shall be left with the clerk of the County Court on entering the action for trial, annexed to the record; and the trial shall take place in the same way as in ordinary cases in such County Court. 58 V. c. 12, s. 90.

Proceedings in such case.

93—(1) By the order of a Judge of the High Court, made upon such terms as the Judge may consider just, the issues of fact and assessment of damages in any action pending in a County Court may be tried and assessed at the sittings of the High Court at any county town.

By order of County Court cases may be tried at High Court sittings.

(2) In such cases the action shall be entered and the case tried as in ordinary cases. 58 V. c. 12, s. 91.

94. Where any such cause is referred by the presiding Judge at such sittings, the County Court in which the action is brought, and the Judge thereof, shall have the same power to enforce any award, report or certificate made on the reference, and to make rules and orders upon appeals therefrom and motions relating thereto, as if the order referring the case had been made by the County Judge. 58 V. c. 12, s. 92.

Powers of County Court afterwards.

Books for
Judge's notes
of trial, etc.

95. The Clerks of the several County Courts shall provide books in which the Judges presiding at the sittings of the High Court, where cases brought in any County Court are tried or assessed under this Act, may enter their notes of such trials and assessments; and such books, immediately after the trials or assessments, shall be returned to the said Clerks and shall remain in their offices. 58 V. c. 12, s. 93.

Fees to
officers.

96. The jury fees and the fees and charges payable and pertaining to officers of the County Courts, upon all actions or proceedings brought in the County Courts and tried or assessed in the High Court, shall be chargeable and paid as if the same were being tried or assessed in the County Courts; and no other fees shall be chargeable thereon, and the Clerk of a County Court shall be entitled to receive and take such part thereof as pertains to him, to his own use. 58 V. c. 12, s. 94.

CERTIFICATE OF LIS PENDENS.

Action, etc.,
not notice un-
less certificate
registered.

97. The instituting of an action or the taking of a proceeding, in which action or proceeding any title or interest in land is brought in question, shall not be deemed notice of the action or proceeding to any person not being a party thereto, until in cases where the land is registered under *The Land Titles Act* a caution is registered under that Act nor in other cases until a certificate, signed by the proper officer of the Court, has been registered in the Registry Office of the Registry Division in which the land is situate, which certificate may be in the following form:—

Rev. Stat.
c. 138.

Form.

“I certify that in an action or proceeding in the High Court, between A. B., of and C. D., of some title or interest is called in question in the following land (*describing it,*)”

Dated at (*stating date and place.*)

Proviso.

But no certificate shall be required to be registered in any action or proceeding for foreclosure or sale upon a registered mortgage. 56 V. c. 21, s. 53.

Order vacat-
ing *lis pendens*
upon non-
prosecution of
action.

98.—(1) Where a certificate of *lis pendens* has been registered, and the plaintiff, or other party at whose instance the certificate was issued, does not in good faith prosecute the litigation, the Court or Judge may at any time during the litigation make an order vacating the certificate of *lis pendens*. 53 V. c. 33, s. 1.

Order where
claim not lim-
ited to land.

(2) Where a certificate of *lis pendens* has been registered, and the plaintiff's claim is not solely to recover the land, or the estate or interest therein, but is to recover a sum of money or money's worth which is chargeable on or payable out of the land, or some estate or interest therein, or for which he claims that the land or such estate or interest therein ought to be subjected to payment, or where the plaintiff claims the land or some interest in land, and, in the alternative, damages or compensation in money or money's worth, the Court or a

Judge may at any time during the litigation make an order vacating the certificate of *lis pendens*, upon such terms as to giving security or otherwise as may be deemed just. 53 V. c. 33, s. 2.

(3) The Court or Judge may at any time annul the registration upon any other just ground. 53 V. c. 33, s. 3. Upon other grounds.

(4) On application under this section, the Court or Judge may order any of the parties to the application to pay the costs of any of the other parties thereto, or may make any other order with respect to costs, as under all the circumstances may appear to him just. 53 V. c. 33, s. 4. Costs.

99. The order for vacating or annulling a certificate of *lis pendens* shall be subject to appeal according to the practice of the High Court in like cases, and may be registered in the same manner as judgments and other orders affecting lands are registered, such registration to be on or after the fourteenth day from the date of the order, unless a Judge of the High Court reverses the order meanwhile, or postpones or forbids the registration. 53 V. c. 33, s. 5. Appeal from order.
Registration of order.

100. Where a certificate of *lis pendens* is vacated, any person may deal in respect to the land, as fully as if such *lis pendens* had not been registered, and it shall not be incumbent on any purchaser or mortgagee to enquire as to the facts alleged in the suit, and the rights of such purchaser or mortgagee shall not be affected by his being aware that the allegations made in the suit were in fact made. 53 V. c. 33, s. 6. Effect of vacating *lis pendens*.

ASSESSORS.

101.—(1) The High Court, or any Divisional Court or Judge before whom any cause or matter may be pending, or the Court of Appeal, may, in any cause or matter in which it thinks it expedient so to do, call in the aid of one or more assessors specially qualified, and try and hear such cause or matter wholly or partially with the assistance of such assessors. Assessors.

(2) The remuneration, if any, to be paid to such assessors shall be determined by the Court. 58 V. c. 12, s. 105 (2, 3); 60 V. c. 16, Sched. D, part. Remuneration.

TRIAL, PROCEDURE AND PLACE OF TRIAL.

102. In actions of libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution and false imprisonment, all questions which might prior to *The Administration of Justice Act, 1873*, have been tried by a jury, shall be tried by a jury, unless the parties in person or by their solicitors or counsel, waive such trial. 58 V. c. 12, s. 109. Certain actions for torts to be tried by a jury.

Cases formerly within exclusive jurisdiction of Court of Chancery.

103. Subject to Rules of Court, all causes, matters and issues, over the subject of which prior to *The Administration of Justice Act* of 1873, the Court of Chancery had exclusive jurisdiction, shall be tried without a jury, unless otherwise ordered. 58 V. c. 12, s. 110.

Certain actions against municipalities to be tried without a jury and venue to be local.

104. All actions against municipal corporations for damages in respect of injuries sustained through non-repair of streets, roads or sidewalks, shall be tried by a Judge without a jury, and the trial shall take place in the County in which the road, street or sidewalk is situated. 59 V. c. 18, s. 5.

Other issues to be tried and damage assessed by judge alone unless jury notice given.

105. Subject to Rules of Court, all causes, matters and issues other than as aforesaid, and the assessment or enquiry of damages therein may, and (subject to the provisions of section 110) in the absence of such notice as in the next section mentioned shall be heard, tried and assessed by a Judge without a jury. 58 V. c. 12, s. 111 (1).

Unless jury notice given or Court or Judge otherwise directs.

106. If any of the parties desires the issues of fact to be tried or damages to be assessed or enquired of by a jury, he shall at any stage of the proceedings but not later than the fourth day after the close of the pleadings, or in case notice of trial is served before that time, then within two days after service of notice of trial, or within such other time as may be ordered by the Court or a Judge, file and serve on the opposite party a notice in writing requiring that the issues should be tried, or the damages assessed by a jury, and a copy of the notice shall be attached to the record or certified copy of the pleadings prepared for the Judge. 58 V. c. 12, s. 111 (2); 59 V. c. 18, Sched. (17).

Effect of notice requiring a jury.

107.—(1) Where any one of the parties has given such notice requiring a jury, the issues of fact shall (subject to the provisions of section 110) be tried and determined or the damages assessed by the verdict of jurors duly sworn for the trial of such issues or for the assessment of such damages.

Parties may waive notice.

(2) The parties present at the trial may consent that the said notice requiring a jury shall be waived, and the case tried and damages assessed by the Judge, and may endorse a memorandum of such consent upon the record, and thereupon the judge may try the issues or assess the damages without a jury. 58 V. c. 12, s. 112 (1, 2).

Agreement of ten jurors in verdict or answers to be sufficient.

108.—(1) In all civil cases in the High Court of Justice or in a County Court, or in any matter or cause within the jurisdiction of the Provincial Legislature, where issues are tried or where damages are assessed by a jury, it shall be sufficient if ten of the jurors empanelled for the trial or assess-

ment shall agree, instead of twelve; and in such case ten jurors may give the verdict, or answer the questions submitted to the jury by the Judge. 58 V. c. 12, s. 112 (3); c. 16, s. 1.

(2) A verdict rendered or question answered under the provisions of this section shall have the same effect as the verdict or answer given by twelve jurors. 58 V. c. 12, s. 112 (4); c. 16, s. 3.

Effect of verdict or answers so given.

(3) This section shall apply to special juries. 58 V. c. 12, s. 112 (5); c. 16, s. 4.

Special juries.

109. If at the trial of any action or issue or assessment of damages, a juror should die or become incapacitated by illness or any other cause from continuing to sit or act on the jury, or if it should be discovered that one of the jury sworn has an interest in the result of the suit or is a relative of any of the parties thereto within the degree of first cousin, the presiding Judge may discharge such juror, and may in any such case direct that the trial or assessment shall proceed on such terms as he thinks fit with eleven jurors, and in such case ten jurors may give the verdict or answer the questions submitted to the jury by the Judge. 58 V. c. 12, s. 113.

Death or illness of juror or discovery of interest during trial.

110. Notwithstanding anything in sections 106 and 107 contained, the Judge presiding at the trial may in his discretion direct that the action or issues shall be tried or the damages assessed by a jury; and upon application to the Court in which the action is pending, or to a Judge thereof, by an order made before the trial, or by the direction of the Judge presiding at the trial, the issues may be tried and damages assessed without a jury. 58 V. c. 12, s. 114; 59 V. c. 18, Sched. (18).

Judge may direct trial by jury, or without a jury.

Verdict.

111. Upon a trial by a jury, it shall not be lawful for the jury to give a general verdict, where the Court or the presiding Judge otherwise directs, and it shall be the duty of the jury to give a special verdict if the Court or presiding Judge so directs; and the jury may give either a general or a special verdict, unless the Court or the presiding Judge otherwise directs; but this section shall not apply to actions of libel. 58 V. c. 12, s. 116.

Court may direct jury to give a special verdict, except in actions for libel.

112. Upon a trial by jury, in any case except an action for libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution or false imprisonment, the Judge, instead of directing the jury to give either a general or a special verdict, may direct the jury to answer any questions of fact stated to them by the Judge for the purpose; and in such case the jury shall answer such questions, and shall not give any

In certain cases the jury may be directed to answer questions, and on the answers the Judge shall enter verdict.

verdict; and, on the finding of the jury upon the questions which they answer, the Judge may direct judgment to be entered. 58 V. c. 12, s. 117.

INTEREST.

Interest may
be allowed
as hitherto.

113. Interest shall be payable in all cases in which it is now payable by law, or in which it has been usual for a jury to allow it 58 V. c. 12, s. 118.

When allowed
on debts cer-
tain and over-
due.

114.—(1) On the trial of any issue, or any assessment of damages, upon any debt or sum certain, payable by virtue of a written instrument at a certain time, interest may be allowed to the plaintiff from the time when the debt or sum became payable.

(2) If such debt or sum is payable otherwise than by virtue of a written instrument at a certain time, interest may be allowed from the time when a demand of payment is made in writing, informing the debtor that interest will be claimed from the date of the demand. 58 V. c. 12, s. 119.

When by way
of damages
in certain
actions.

115. In actions for conversion of goods or for trespass *de bonis asportatis*, the jury may give interest in the nature of damages over and above the value of the goods at the time of the conversion or seizure, and in actions on policies of insurance may give interest over and above the money recoverable thereon. 58 V. c. 12, s. 120.

Interest on
judgments.

116. Unless it is otherwise ordered by the Court, a verdict or judgment shall bear interest from the time of the rendering of the verdict, or of giving the judgment, as the case may be notwithstanding that the entry of judgment, shall have been suspended by any proceedings in the action, whether in the Court in which the action is pending or in appeal. 58 V. c. 12, s. 121.

PLEADINGS IN ACTIONS ON FOREIGN JUDGMENTS.

Suit upon
judgment in
Quebec, where
service was
personal.

117. In any action brought in Ontario on a judgment obtained in the Province of Quebec in an action in which the service of notice on the defendant or party sued has been personal, no defence that might have been set up to the original action shall be pleaded to that brought on the judgment. 58 V. c. 12, s. 122.

Suit upon
judgment in
Quebec, where
the service
was not
personal.

118. In any action brought in Ontario on a judgment obtained in the Province of Quebec in an action in which personal service was not obtained and in which no defence was made, any defence that might have been set up to the original action may be made to the action on the judgment. 58 V. c. 12, s. 123.

COSTS.

119. Subject to Rules of Court, and to the express provisions of any statute, the costs of and incident to all proceedings in the Supreme Court of Judicature, shall be in the discretion of the Court or Judge, and the Court or Judge shall have full power to determine by whom and to what extent such costs are to be paid. 59 V. c. 18, s. 11.

Cost in discretion of Court.

WITNESS FEES.

120. No public official or other witness subpoenaed or called upon to produce before any Court or other tribunal any public or other document shall be entitled to more than ordinary witness fees, unless the Court or other tribunal otherwise orders. 58 V. c. 12, s. 127, part; 59 V. c. 18, Sched. (20).

Fees of certain officers producing documents.

REFERENCES TO MASTER IN ORDINARY.

121.—(1) Unless the Master in Ordinary shall certify that by reason of press of business, or for other good reason, he is presently unable to proceed with any reference or trial, or unless the Judge or the Court which directs the reference or the trial is satisfied that the said Master in Ordinary is otherwise unable or ought not by reason of disqualification or for any other good reason, to take or proceed with any reference or trial, the references which shall be made by the High Court or a Judge thereof at the trial or hearing in Toronto of any action, suit or proceeding begun and carried on in Toronto, and which might according to the practice of the Court be referred to the Master in Ordinary, shall be to the Master in Ordinary. This section shall apply to references made by order of the Court or a Judge under *The Arbitration Act*.

When references to be to master in ordinary.

(2) Nothing in this section contained shall affect the powers of reference of the Court or Judge where a reference shall be made to an engineer or other skilled or expert person. 60 V. c. 14, s. 87.

Rev. Stat. c. 62.

RULES OF COURT.

122.—(1) The Supreme Court may at any time, with the concurrence of a majority of the Judges thereof present at any meeting held for that purpose, alter and annul any Rules of Court for the time being in force, and may make any further or additional Rules of Court for carrying this Act into effect, and in particular for all or any of the following matters that is to say:

Judges of Supreme Court may make rules.

(a) For regulating the sittings of the High Court of Justice and the Court of Appeal, and of any Divisional

or other Courts thereof respectively, and of the Judges of the said High Court sitting in Chambers ;

(b) For regulating the pleading, practice, and procedure in the High Court of Justice and Court of Appeal ;

(c) For the hearing of appeals from County Courts, or from a Judge of a County Court, from Provisional Judicial District Courts or from a Judge of any such Court, from Surrogate Courts, Stipendiary Magistrates, or Division Courts, by any two or more of the Judges of the Supreme Court, and for regulating the selection of the Judges of the Supreme Court, who shall hear such appeals, and for regulating all matters relating to the practice of such appeals ;

To empower Master in Chambers, etc., to make orders.

(d) For empowering the Master in Chambers, or any referee sitting for him, or the Judges of the County Courts, other than the Judge of the County of York, or the Local Masters in respect of actions brought in their counties, to do any such thing, and to transact any such business, and to exercise any such authority and jurisdiction in respect of the same as by virtue of any Statute or custom, or by the Rules of the High Court, are now or may be hereafter done, transacted or exercised by a Judge of the High Court sitting at Chambers, and as shall be specified in any such rule, except in respect of matters relating to—

1. The liberty of the subject ;
2. Appeals and applications in the nature of appeals ;
3. Proceedings under *The Act respecting Lunatics* ;
4. Applications for advice under *The Trustee Act* ;
5. Matters affecting the custody of children ; and
6. Proceedings under section 37 of this Act.

Rev. Stat.,
c. 65.

Rev. Stat.,
c. 129.

(e) Generally, for regulating any matters relating to the practice and procedure of the said Courts respectively, or to the duties of the officers thereof, or of the said Supreme Court, or to the costs of proceedings therein ; and every other matter deemed expedient for the better attaining the ends of justice, advancing the remedies of suitors, and carrying into effect the provisions of this Act and of all other Acts now or hereafter in force respecting the said Courts.

(f) Subject to the approval of the Lieutenant-Governor in Council, to make rules from time to time regulating all fees payable in stamps.

(2) Where any provisions in respect of the practice or procedure of any courts, the jurisdiction of which is vested by this Act in the High Court, are contained in any statute, Rules of Court may be made for modifying such provisions to any extent that may be deemed necessary for adapting the same to the High Court, unless, in the case of any Act hereafter passed, this power shall be expressly excluded.

(3) Any provisions relating to the payment, transfer or deposit into, or in, or out of any Court of any money or property, or to the dealing therewith, shall, for the purposes of this section, be deemed to be provisions relating to practice and procedure.

(4) All Rules of Court made in pursuance of this section shall from and after they come into operation, regulate all matters to which they extend, until annulled or altered in pursuance of this section or section 125. 58 V. c. 12, s. 132; c. 13, s. 41.

123. Subject to any Rules of Court which may be made under the provisions of the preceding section, the Judges of the Court of Appeal, or a majority of them, may from time to time make such general rules and orders for fixing the costs to be allowed in respect of proceedings in the said Court, and for regulating the different proceedings in appeal, and generally for the effectual execution of this Act and the intention and object thereof in regard to the practice in appeals as to them may seem expedient; and may also from time to time alter and amend any of the existing rules or any rules made under the authority of this Act, and make other rules instead thereof; and until such rules are made, the present rules and the existing practice and mode of proceeding in the Court shall continue in force. 58 V. c. 12, s. 133. Judges of Court of Appeal may make rules.

124. The Judges of the High Court or any four* of them, of whom two of the Presidents of the Divisions of the High Court shall be two, shall, as regards matters in the High Court, have power to make general rules from time to time for the regulation of the practice of the High Court. 58 V. c. 12, s. 134. Judges of High Court may make rules.

125. The Lieutenant-Governor in Council may from time to time authorize the following persons, viz.: the Chief Justice of Ontario, the Chancellor, the Chief Justice of the Queen's Bench, the Chief Justice of the Common Pleas, and any one or more of the other Justices of the Supreme Court, to make Rules of Court under this Act; every such appointment to continue for such time as shall be specified by Order-in-Council, and the Judges so appointed, or any three of them, may make such rules, and the same shall have the same effect as if made by all the Judges of the Supreme Court, under section 122. 58 V. c. 12, s. 135. Lieut.-Gov. ernor in Council may authorize certain Judges to make rules.

Authority to make Rules of Court for District Courts.

126. The Judges of the Supreme Court and of the High Court, respectively, shall have the same authority to make Rules of Court with respect to District Courts as they have with respect to the High Court and to County Courts, and the Judges authorized as mentioned in section 125 of this Act shall, with respect to District Courts, have the like authority. 58 V. c. 12, s. 136.

Council of Judges to consider procedure and administration of justice.

127. A Council of the Judges of the said Supreme Court, of which due notice shall be given to all the said Judges, shall assemble once at least in every year, on such day or days as shall be fixed by the Lieutenant-Governor, for the purpose of considering the operation of this Act and of the Rules of Court for the time being in force, and also the working of the several offices and the arrangements relative to the duties of the officers of the said Courts respectively, and of enquiring and examining into any defects which may appear to exist in the system of procedure or the administration of the law in the High Court of Justice or the Court of Appeal, or any other Court, or by any other authority; and they shall report annually to the Lieutenant-Governor what (if any) amendments or alterations it would in their judgment be expedient to make in this Act, or otherwise relating to the administration of justice, and what other provision (if any) which cannot be carried into effect without legislative authority it would be expedient to make for the better administration of justice; an extraordinary council of the said Judges may also at any time be convened by the Lieutenant-Governor. 58 V. c. 12, s. 137.

Provision for saving of existing procedure where not inconsistent with this Act or Rules of Court.

128. Save as by this Act or by any Rules of Court otherwise provided, all forms and methods of procedure which, prior to the 22nd day of August, 1881, were in force in any of the Courts whose jurisdiction then became vested in the said High Court, under and by virtue of any law, general order, or rule whatsoever, and which are not inconsistent with this Act or with any Rules of Court, may continue to be used and practised in the said High Court of Justice, in such and the like cases, and for such and the like purposes as nearly as may be, as those to which they would have been applicable prior to the said date in the respective Courts of which the jurisdiction became so vested. 58 V. c. 12, s. 138.

Consolidated Rules of Practice prepared under 58 V. c. 13, and 59 V. c. 18, confirmed.

129. The Consolidated Rules of Practice and Procedure of 1897, revised and consolidated under the authority of section 42 of *The Law Courts Act, 1895*, and of section 15 of *The Law Courts Act, 1896*, by the Commissioners appointed under the said section 42 and approved by the Lieutenant-Governor in Council are hereby declared to be as valid as if contained in an Act of the Legislature; and nothing in the said rules shall be open to any question as to the jurisdiction to make, approve and authorize the same under the said section or otherwise,

but the same shall be subject to be varied or repealed from time to time by the same authority and in the same manner as other Rules of Court. 59 V. c. 18, s. 15.

OFFICERS AND OFFICES.

130.—(1) The Lieutenant-Governor in Council may from time to time appoint a suitable person to be Registrar of the Court of Appeal. Registrar may be appointed for the Court of Appeal.

(2) The said Registrar shall not take for his own use or benefit, directly or indirectly, any fee or emolument save the salary to which he is entitled by law; and all fees received by him on account of the said office shall form part of the Consolidated Revenue Fund, and shall be payable in stamps, subject to *The Act respecting Law Stamps*. 58 V. c. 12, s. 139. Fees to be paid Registrar in stamps.
Rev. Stat. c. 25.

131.—(1) The Lieutenant-Governor may from time to time appoint a Master in Ordinary, a Master in Chambers, an Accountant of the Supreme Court and two or more Taxing Officers. Appointment of Masters, etc.

(2) Subject to orders of the Lieutenant-Governor in Council, the said officers and the Local Masters shall be officers of the Supreme Court and attached thereto. 58 V. c. 12, s. 140.

132. The Lieutenant-Governor may from time to time appoint for the High Court; one Clerk of the Crown and Pleas; two Registrars; one Clerk of the Process; one Clerk of Records and Writs, and also such other clerks and officers as the business of the Court may, from time to time, require; and such officers and clerks shall, in addition to any of the duties usually performed by the like officers and clerks, perform such duties as may by Order in Council or Rules of the Supreme Court or the High Court be provided. 58 V. c. 12, s. 141, part; 59 V. c. 18, Sched. (22). Appointment of Clerk of Process, etc.
Duties.

133.—(1) Subject to orders of the Lieutenant-Governor in Council, all officers attached to the various Divisions of the High Court shall remain and continue to be attached to the Division to which they are now respectively attached. Officers to remain attached to their several Divisions until changed.

(2) Where a doubt exists as to the position under this Act of any existing officer attached to any Court or Judge affected by this Act, such doubt may be determined by Rule of Court.

(3) The Lieutenant-Governor in Council shall have the power and (subject to any Order in Council) the Judges of the said Supreme Court shall have power to change the official names of offices and officers, and to change and regulate the duties of the officers. 58 V. c. 12, s. 142.

Distribution
of business
among
officers.

134. Subject to any Order in Council in that behalf, the business to be performed in the High Court and in the Court of Appeal respectively, or in any Divisional or other Court thereof, or in the Chambers of any Judge thereof, other than that performed by the Judges, shall be distributed among the several officers attached to the said Courts by the preceding section in such manner as may be directed by Rules of Court; and such officers shall perform such duties in relation to such business as may be directed by Rules of Court; and, subject to such Order in Council and Rules of Court, all such officers respectively shall continue to perform the same duties, as nearly as may be, and in the same manner as if this Act had not been passed. 58 V. c. 12, s. 143.

Oath of
Officers.

135.—(1) Every officer of the Court hereafter appointed shall, before he enters upon his duties, take and subscribe the following oath :—

Form.

“ I, A. B. of ———, do hereby solemnly swear that I will, according to the best of my skill, learning, ability and judgment, well and faithfully execute and fulfil the duties of the office of (*as the case may be*) without favour or affection, prejudice or partiality, to any person or persons whomsoever. So help me God.”

Before whom
taken.

(2) When not convenient to a person appointed to any office to attend at Toronto to take the oath of office, the oath may be taken before the Judge of the County Court of the County in which the officer resides, or before a Commissioner authorized to administer affidavits in such County, and the oath shall be certified by the Judge or Commissioner and filed amongst the records of the Court at Toronto. In all other cases the oath shall be administered to the officer by the Judge in open Court. 58 V. c. 12, s. 145.

Officers to
give security.

136. The Clerk of the Crown and Pleas, the Clerk of the Process, the Registrars and Local Registrars of the High Court, and the Deputy Clerks of the Crown and Pleas, shall within one month next after their appointment, give security to Her Majesty, in such sum and with so many sureties, and in such form as the Lieutenant-Governor in Council directs, conditioned respectively for the due performance of the duties of their respective offices. 58 V. c. 12, s. 146, part; 59 V. c. 18, Sched. (23).

Consequences
of neglecting
to do so.

137. The neglect by any such officer to give such security shall render his appointment void; but the forfeiture of office shall not affect any Act done by him during the time he actually continues to hold his appointment. 58 V. c. 12, s. 147, part; 59 V. c. 18, Sched. (24).

Who to ap-
prove of the
sureties

138. The Lieutenant-Governor shall in his discretion approve of the security and sureties so given by the Clerk of the Process, Clerk of the Crown and Pleas and Registrars; and the Judge of the County Court having first certified his

approval in writing, of the security and sureties given by the Local Registrar or Deputy Clerk of the Crown for his County, the Lieutenant-Governor shall in his discretion approve of the security and sureties so given by such Local Registrar or Deputy Clerk; and such securities, when executed and approved, shall be duly recorded in the manner provided by *The Act respecting Public Officers*, and shall then be deposited in the office of the Provincial Treasurer. 58 V. c. 12, s. 148, part; 59 V. c. 18, Sched. (25).

To be recorded and deposited as provided by Rev. Stat. c. 16.

139. The Clerk of the Crown and Pleas, the Registrars and the Clerk of the Process respectively shall keep their offices in Osgoode Hall, in the City of Toronto. 58 V. c. 12, s. 149; 59 V. c. 18, Sched. (26).

Offices to be kept at Osgoode Hall.

140. The Clerk of the Process shall make to the Treasurer of the Province quarterly returns, verified by his affidavit, of all writs and process supplied by him to be issued by the said officers. 58 V. c. 12, s. 151, part; 59 V. c. 18, Sched. (27).

The Clerk of Process to make quarterly returns.

141.—(1) Subject as aforesaid, the Judges of the County Courts, the Master in Ordinary, the Master in Chambers, the Clerk of the Crown and Pleas, the Registrars of the High Court and the Local Masters shall be official referees for the trial of such questions as shall be directed to be tried by such referees.

Official referees.

(2) In case the business is found to require other or additional official referees, and the President of the High Court so certifies, the Lieutenant-Governor from time to time may appoint other and additional official referees accordingly. 58 V. c. 12, s. 152 (1, 2), part; 59 V. c. 18, Sched. (28).

Additional referees may be appointed.

142. In the case of officers who are paid by salary, the fees on any reference or trial shall be paid in stamps other referees shall be paid in money. 58 V. c. 12, s. 152 (3).

When fees to be paid in stamps.

143.—(1) There shall be a Local Master in every county or union of counties other than the County of York, and every Local Master hereafter appointed shall reside in the county for which he is appointed.

Local Masters.

(2) When a vacancy occurs in the office of Local Master, the Judge of the County Court for the county shall be the Local Master until and unless another person is appointed Local Master. In such case if there are two County Judges, a Senior and Junior Judge, both Judges shall be Local Masters until and unless one of them or some other person is appointed sole Local Master.

In case of vacancy.

Deputy Clerks
of the Crown.

(3) Except in the County of York, the several Clerks of the County Courts shall be *ex officio* Deputy Clerks of the Crown and Pleas of the High Court for their respective Counties, unless the offices of Deputy Clerk of the Crown and Deputy Registrar are consolidated under subsection 5.

Ex-Deputy
Registrars.

(4) Where a County Court Judge is the Local Master, the County Court Clerk shall be the Deputy Registrar.

Local Regis-
trars.

(5) The offices of Deputy Clerk of the Crown and Deputy Registrar (not Local Master) shall be consolidated as vacancies occur in either; unless where the Presidents of the Divisions of the High Court or a majority recommend otherwise; when the said offices are held by the same person, he shall be styled Local Registrar of the High Court. 58 V. c. 12, s. 153 (1-5).

Fees of De-
puty Clerks of
the Crown.
Rev. Stat.
c. 62

144.—(1) Except as provided in subsection 4 of section 30 of *The Arbitration Act*, where a reference is made to a Deputy Clerk of the Crown, or an examination is taken by him, he shall be entitled to take and receive to his own use the fees on such reference or examination.

Commutation
of fees of Local
Masters.

(2) The Lieutenant-Governor in Council may commute the fees of a Local Master, or of a Local Master and Deputy Registrar, including his fees as an official referee, for a fixed annual sum, such sum not to exceed the average income derived from such fees for the preceding five years.

Commutation
of fees of
Deputy Clerks
of the Crown.

(3) The Lieutenant-Governor in Council may commute the fees payable to a Deputy Clerk of the Crown on references and examinations and other matters for a fixed annual sum, such sum not to exceed the average income derived from such fees during the preceding five years.

Amount of
commutation
may be
changed.

(4) Any annual sum fixed as provided in the preceding two subsections shall continue until varied by Order in Council, but any order for payment of any such annual sum as aforesaid may be rescinded, and the amount may by Order in Council be increased or diminished, provided that in no case shall any Order in Council name a sum exceeding the average income or fees aforesaid (as the case may be) during the preceding five years. 58 V. c. 12, s. 153 (6-9).

Appointment
of officers.

145. The Local Masters, Local Registrars, and Deputy Clerks of the Crown, Deputy Registrars and other officers mentioned in this Act shall be appointed by the Lieutenant-Governor, and every such officer heretofore or hereafter appointed shall hold office during the pleasure of the Lieutenant-Governor. 58 V. c. 12, s. 153 (10).

Office hours of
judicial
officers.

146. Subject to Rules of Court as to office hours during vacations and in Toronto on Saturdays, the offices of the Local Registrars, Deputy Clerks of the Crown, and those of

the Supreme Court, Court of Appeal, and the High Court of Justice for Ontario at Osgoode Hall, shall be kept open from 10 o'clock in the forenoon until 4 o'clock in the afternoon, except upon legal holidays or other special days appointed by an Act of the Legislature. 60 V. c. 3, s. 3; c. 14, s. 89.

147.—(1) Where a Local Master, or Deputy Registrar, or Deputy Clerk of the Crown, or other officer, is paid by a salary, he shall not, save as hereinbefore expressly provided, take for his own benefit, directly or indirectly, any fee or emolument, save the salary to which he is entitled; but the like sums and fees heretofore payable on proceedings in his office shall continue to be payable; and all such fees shall form part of the Consolidated Revenue Fund of this Province, and shall be payable in stamps, subject to the provisions of *The Act respecting Law Stamps*. 58 V. c. 12, s. 153 (11). Officers paid by salaries not to take fees for their own use. Rev. Stat. c. 25.

(2) The Local Masters and Deputy Registrars not paid by salary and the commissioners for taking affidavits may retain to their own use all the fees of office which they respectively receive not payable to the Crown or belonging to any fee fund, and need not account to the Crown for any portion of such fees. 58 V. c. 12, s. 180 (2). Local officers may take fees if not paid by salary.

148. No Local Master whose gross income from his office of Local Master or of Deputy Registrar and Local Master, is \$2,000 or upwards, shall, during the continuance of his appointment, directly or indirectly, practise in the profession of the law as Counsel, or Solicitor, or as a Notary Public, or Conveyancer, or do any manner of conveyancing, or prepare any papers or documents to be used in any court of this Province, under the penalty of forfeiture of office and the further penalty of \$400, to be recovered by any person who sues for the same by action in the High Court, and one-half of such pecuniary penalty shall belong to the party suing, and the other half to Her Majesty for the use of the Province; and nothing in this section shall prevent the Lieutenant-Governor in Council, or the High Court, from requiring a Local Master whose income does not amount to \$2,000, to abstain from practising under the like penalties. 58 V. c. 12, s. 153 (12). Local Masters not to practise in certain cases.

149. The High Court may, with the concurrence of the Lieutenant-Governor, relieve any person now holding the office of Local Master and Deputy Registrar, or any other officer from the operation of subsection 1 of section 143, and section 148, or of either of them. 58 V. c. 12, s. 153 (13). High Court may except officers from ss. 143 (1) and 148.

150.—(1) The Lieutenant-Governor in Council may direct that sums not in any case exceeding \$600 nor less than \$100 yearly shall be paid out of such moneys as may be Salaries of Deputy Clerks of the Crown.

voted by the Legislature for the purpose, as and for the salaries of the Deputy Clerks of the Crown respectively.

(2) The preceding provision fixing the maximum at \$600 shall not apply to any case where the Deputy Clerk does not hold the office of Registrar of the Surrogate Court. 58 V. c. 12, s. 181.

Returns of fees.

151.—(1) Every officer paid by fees, whether commuted or not, shall on or before the 15th day of January in every year, transmit to the Inspector of Legal Offices appointed under section 165 of this Act, a just, true and faithful account, verified upon oath, of the amount of fees paid or payable to him in cash or in stamps, in respect of his office during the preceding year, and also such particulars with reference to the business of his office as the Inspector of Legal Offices may require.

Form of returns.

(2) The Lieutenant-Governor or the member of the Government having charge of the matter may require the return to state any particulars, or to be made in any form that may be thought proper, and such return shall be made accordingly. 58 V. c. 12, s. 153 (14, 15).

Seals of Deputy Registrars and Deputy Clerks of the Crown.

152. In the office of every Local Registrar, Deputy Registrar and Deputy Clerk of the Crown such seal shall be used as the Lieutenant-Governor shall from time to time direct, which seal shall be impressed on every writ and other document issued out of or filed in such office; and all such writs and documents, and all exemplifications and copies thereof, purporting to be sealed with the seal of any such Local Registrar, Deputy Registrar or Deputy Clerk of the Crown, shall in all parts of this Province be received in evidence without further proof thereof. 58 V. c. 12, s. 154.

Marshal and Clerk of Assize for county of York.

153. The Lieutenant-Governor in Council may from time to time appoint a suitable person to be the Marshal and Clerk of Assize for the County of York, who shall hold office during pleasure. 58 V. c. 12, s. 155.

Remuneration of Marshals of Assize.

154. Every Marshal and Clerk of Assize, being a Deputy Clerk of the Crown, Deputy Registrar, or Local Registrar, or authorized to act as such, shall be entitled to be paid out of the Consolidated Revenue Fund the sum of \$4 for each day's attendance as such Marshal or Clerk of Assize. 58 V. c. 12, s. 156; 59 V. c. 18, Sched. (29).

Not to receive fees in criminal cases.

155. No charge whatever shall be made by any of the said Marshals or Clerks of Assize upon any criminal trial or proceeding in any Court at which they act as Marshals and Clerks of Assize respectively. 58 V. c. 12, s. 157.

Where Deputy Clerk's office to be kept.

156.—(1) Each Deputy Clerk of the Crown and Pleas shall, if proper accommodation is afforded him, keep his office in the

Court House of his County, and until he can obtain such accommodation he shall keep his office in some convenient place in the County Town.

(2) Provided, however, that the Deputy Clerk of the Crown and Pleas at Sandwich may keep an office in some convenient place in the Town of Windsor, in the County of Essex, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval thereof by the Lieutenant-Governor in Council. 58 V. c. 12, s. 158. Proviso.

157.—(1) There shall be an Official Guardian *ad litem* of infants, who shall be appointed by the Lieutenant-Governor, and shall be a Barrister-at-Law and Solicitor of this Province, of not less than seven years' standing, and shall hold office during pleasure. 58 V. c. 12, s. 159 (1). Official guardian *ad litem*.

(2) The Official Guardian, besides acting as a Guardian *ad litem* of infants under Rules of Court and other orders, shall perform such other duties as the President of the High Court may from time to time direct. 58 V. c. 12, s. 159 (2); 59 V. c. 18, Sched. (30). Duties of Guardian.

(3) The same costs as hitherto shall be paid to the Guardian by any party; and the same costs as hitherto shall be payable to the Guardian out of funds in Court; but all costs so paid to the Guardian by any party shall be by such Guardian paid forthwith into Court with the privity of the Accountant of the Supreme Court, and shall be placed to the credit of an account to be entitled "Account of Official Guardian *ad litem*;" and all costs payable to the Guardian out of any funds in Court, shall be transferred to the credit of the same account. Costs of Guardian.

(4) Where the estate is small, and, in view of the amount at the credit of the said account, the amount or part of the amount payable out of the estate for the Guardian's costs does not appear to be required to pay the salary and disbursements of the Official Guardian, the Court may withhold payment out of such estate of the sum or any part of the sum due for the Guardian's costs in respect of such estate; and may distribute the estate as if such costs were not payable by or out of the same. Costs where estate is small.

(5) There shall be paid to the said Guardian in respect of all business done a fixed salary of such sum per annum as, in view of the amount of business done or to be done by the Guardian, and the sum at the credit of the account, the said Judges think reasonable and the Lieutenant-Governor in Council approves; which salary shall be over and above all necessary disbursements; and the salary and disbursements shall be paid monthly or otherwise as shall be determined by Rule of Court, out of the fund at the credit of the said account of Official Guardian *ad litem*, and not otherwise. Salary of Guardian.

Transfer of surplus of Guardian's account.

(6) The surplus appearing from time to time at the credit of the said account beyond what may be required to pay the charges on the said account, shall be transferred to the "Suitors' Fee Fund Account."

Costs of solicitor employed by Official Guardian.

(7) Where the Official Guardian has occasion to employ a Solicitor in another County for the purpose of any proceeding in an action, such Solicitor shall be entitled to receive from the Official Guardian in respect of the proceeding the same costs as if the Solicitor so employed were Solicitor and Guardian of the infant.

Return of costs.

(8) The Official Guardian *ad litem* shall once every six months file in the Accountant's office an affidavit, showing all costs recovered by him as Official Guardian *ad litem*, during the six months preceding the making of the affidavit, giving therein the several amounts received by him, and the name or names of the actions and matters in which the same were respectively received by him, together with the date of receipt.

Transfer on appointment of new Guardian.

(9) When a new Official Guardian *ad litem* is appointed, he shall *ipso facto* become, and be by virtue of such appointment, Guardian *ad litem* to all infants, in the place and stead of his predecessor, with the same duties and powers; and the latter (his executors and administrators, as the case may be) shall forthwith deliver over to the new Official Guardian all letters, papers, documents and books in his possession or power as official or other Guardian *ad litem* of infants; and the new Guardian shall forthwith communicate his appointment to whomsoever it may concern.

Guardian not to practise if Lieutenant-Governor in Council or Court so orders.

(10) The Lieutenant-Governor in Council, or the High Court may order that the Official Guardian is not to practise as a Barrister or Solicitor, and in such case he shall not, during the continuance of his appointment and of such order, directly or indirectly, practise the profession of the law as Counsel or Solicitor, or as a Notary Public, or Conveyancer, or do any manner of conveyancing, or prepare any papers or documents to be used in any Court of this Province, except in the discharge of his duties as Official Guardian, or of any other duties which may be assigned to him by the said High Court or any Division or Judge thereof as the case may be; and the said Official Guardian in case of his offending in the matter aforesaid shall be subject to a penalty of forfeiture of office, and the further penalty of \$400 to be recovered by any person who sues for the same by action in the High Court; and one-half of such pecuniary penalty shall belong to the party suing, and the other half to Her Majesty for the use of the Province. 58 V. c. 12, s. 159 (3-10).

Annual statement of Official Guardian's accounts.

158. The Accountant shall on or before the 15th day of January in every year, transmit to the Lieutenant-Governor in Council a just, true and faithful statement, show-

ing the state of the "Account of Official Guardian *ad litem*," upon the 31st day of the preceding December. 58 V. c. 12, s. 160.

159.—(1) Subject to any Rules of Court made under the provisions of sections 122 to 129 of this Act, the present Accountant and his successors appointed under section 131 of this Act, shall be the Accountant of the Supreme Court of Judicature for Ontario and shall be so designated. Accountant of Supreme Court.

(2) For the purposes of holding the mortgages, stocks, funds, securities, and all estate therein, and any interest in real and personal estate, effects or property, and of all moneys and effects mentioned and described in sections 162 and 163 of *The Judicature Act, 1895*, or in any Rule or Order of Court, the said Accountant shall be a corporation sole by the name of "The Accountant of the Supreme Court of Judicature for Ontario," and the said Accountant as such corporation sole shall have perpetual succession, and may sue and be sued, may plead and be impleaded in any of Her Majesty's Courts in this Province. 58 V. c. 12, s. 161. To be a corporation sole. 58 V. c. 12.

160. In case of there being at any time no Accountant of the Supreme Court, all mortgages, stocks, funds, annuities and securities whatsoever theretofore standing in the name of any Accountant, or in his custody or power in respect of his office, together with all the interest and estate of the said Accountant in the lands and premises embraced in such mortgages or other securities, shall become and be, by force of this Act, vested in such other officer as the Supreme Court, by general rule, may, from time to time, direct, subject to the same trusts as they may then respectively be subject to. 58 V. c. 12, s. 164. When there is no Accountant securities to be vested in officer appointed by Court.

161. All moneys that become subject to the control and distribution of the High Court or Court of Appeal shall be paid in the name of the Accountant of the Supreme Court, (or if there is no Accountant in the name of such other officer as the Court by general rule may have directed) into the hands of such person or body corporate, or shall be invested in the name of the Accountant (or, if there is no Accountant, in the name of such other officer) in the public funds of the Dominion of Canada or of this Province, or in such other securities as the Court may from time to time direct. 58 V. c. 12, s. 165. Money under control of Court how to be paid or invested.

162. The expenses of the Accountant's office including all salaries shall be the first charge on the income arising from the funds in Court. 58 V. c. 12, s. 166. Expenses of Accountant's office.

163. The surplus income arising from the funds in the High Court after payment of the expenses of the Accountant's office, and of such interest on the moneys of suitors as from Surplus to be paid to suitor's fee fund.

time to time by Rules of Court or otherwise is directed to be paid, shall be transferred to the "Suitor's Fee Fund Account." 58 V. c. 12, s. 167.

Suitor's fee fund.

164. "The Suitor's Fee Fund Account," shall continue to be kept and managed as may from time to time be directed by the Court, and any Divisional Court or any Judge of the Supreme Court of Judicature for Ontario may apply the same as may be necessary for the protection of infants and other persons not *sui juris* or *non compotes mentis*, on whose behalf proceedings may be had in the Court, or may, by the Court, be ordered to be had in other Courts, and may also, from time to time, order to be paid, out of the money at the credit of the said account, any sum required to make good a default arising in respect of suitors' money or securities from any mistake, act or omission of any official of the Court. Such payment is to be without prejudice to any personal liability of the official or his sureties in respect of the mistake, act or omission. 58 V. c. 12, s. 168.

Certain losses may be charged on suitor's fee fund.

Inspector of Legal Offices.

165. The Lieutenant-Governor may from time to time appoint one of the officers of the High Court, or some other competent person, to be called "The Inspector of Legal Offices" to inspect the offices of the Sheriffs, Local Masters, Deputy Registrars, Deputy Clerks of the Crown, Local Registrars of the High Court, Registrars of the Surrogate Courts, Clerks of the Peace and County Crown Attorneys and Clerks of the County Courts, in the respective Counties of the Province, and such other officers connected with the administration of justice as the Lieutenant-Governor in Council may from time to time direct. 58 V. c. 12, s. 169.

Duties of Inspector.

166. The following shall be the duties of the Inspector.

1. To make a personal inspection of the said offices and of the books and Court papers belonging thereto respectively ;

2. To see that proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a proper manner, at proper times and in a proper form and order, and that the Court papers and documents are properly classified and preserved ;

3. To ascertain that the duties of the officers are duly and efficiently performed ;

4. To see that proper costs and charges only are allowed or exacted ;

5. To ascertain that proper security has been given by any officer required by law to give security ;

6. To ascertain whether uniformity of practice prevails in the several offices of the High Court and in the County and Surrogate Courts;

7. To report upon all such matters to the Lieutenant-Governor. 58 V. c. 12, s. 170.

167. When the Inspector has occasion to institute an inquiry into the conduct of any officer in relation to his official duties or acts, it shall be lawful for the said Inspector to require such officer, or any other person or persons, to give evidence on oath; and for this purpose the Inspector shall have the same power to summon such officers and other persons to attend as witnesses, to enforce their attendance and to compel them to produce books and documents and to give evidence, as any Court has in civil cases. 58 V. c. 12, s. 171.

Inquiries by Inspector.

168. The said several officers shall, as often as required by the Inspector, produce for examination and inspection all books and documents which are required to be kept by them, or which may hereafter be required to be kept by them; and shall report to the Inspector all such matters relating to any cause or proceeding as the Inspector shall require. 58 V. c. 12, s. 172.

Books, etc., to be produced for inspection.

[*As to authority of Inspector to direct law stumps to be affixed to proceedings not properly stamped, see Cap. 25, sec. 14.*]

169. The stenographic writers heretofore appointed, or who shall hereafter be appointed by the Lieutenant-Governor to report trials at sittings of the High Court or of a County Court, shall be officers of the Court to which they are appointed, and shall hold office during the pleasure of the Lieutenant-Governor, and shall perform such other duties as may be assigned to them by Rule of Court, or order of the Lieutenant-Governor in Council.

Stenographic writers.

170. Every such reporter shall take the following oath before one of the Judges of the Court to which he is appointed, and the same shall be filed:

Reporter's oath.

I, (A. B.) do solemnly and sincerely promise and swear that I will faithfully report the evidence and proceedings at the trial in each case in which it may be my duty to act as shorthand reporter. So help me God.

58 V. c. 12, s. 174.

Fee payable
on entering
actions for
trial.

171.—(1) To provide a fund to enable a reduction to be made to litigants for copies of evidence taken in shorthand at trials or references, a fee of \$1 shall be paid in every civil case in the High Court of Justice entered for trial to the officer of the Court who enters the same, who shall keep a list of such causes duly entered in a book to be kept by him for the purpose, and who shall within forty-eight hours after the closing of the sittings of the Court make a return to the officer to be appointed for that purpose by the Lieutenant-Governor in Council of the actions so entered for trial, and of the money so paid thereon, and shall certify that the sum therewith returned is the full amount so paid to him on account of the cases entered at such sittings.

Shorthand
reporter's
fund.

(2) The officer appointed shall keep an account of the said moneys, under the head of Shorthand Reporter's Fund, in a book to be kept for the purpose, and the said moneys shall be paid out and applied in connection with such reporting in such manner as the Lieutenant-Governor in Council may from time to time by order provide. 58 V. c. 12, s. 131 (1); c. 13, s. 40 (1); 59 V. c. 18, Sched. (21).

Appointment
of special
examiners.

172.—(1) The Supreme Court may, from time to time, under the seal of the Court, appoint, and at discretion remove, special examiners for the purpose of taking evidence of parties and witnesses, and the examiners so appointed shall have all the powers formerly possessed by Masters Extraordinary and Examiners. 58 V. c. 12, s. 175.

Number
limited.

(2) There shall be but four special examiners at or in the City of Toronto, besides the officer or clerk at Osgoode Hall mentioned in subsection 4. 60 V. c. 14, s. 56 (1).

Fees for
examinations.

(3) The Lieutenant-Governor in Council may make regulations fixing the fees and charges of and payments to stenographers and others entitled to take examinations for taking examinations for discovery or cross-examinations in the High Court and County Court, and for copies of such examinations or cross-examinations. 58 V. c. 12, s. 131 (2); c. 13, s. 40 (2).

Salaried
officer at Os-
goode Hall
not to take
fees as exami-
ner for his own
use.

Rev. Stat.
c. 25.

(4) No officer or clerk at Osgoode Hall who is in receipt of a salary as such officer or clerk from the Province shall act as a special examiner for fee or reward; but the fees payable in respect of such examination or for copies or certificates thereof or connected therewith shall be payable in stamps subject to the provisions of *The Act respecting Law Stamps*, and not otherwise, and no such officer or clerk whose salary is paid as aforesaid shall hereafter be eligible for appointment as a special examiner. In the event of a vacancy occurring in the

said office of examiner there shall thereafter be but three special examiners in the said city besides such officer or clerk.
60 V. c. 14, s. 56 (2).

173. When an examination is taken by a stenographer or other person who is not an examiner, it shall be taken in all cases in the presence of the examiner. 60 V. c. 14, s. 60.

Examination to be taken in presence of examiner.

174. No special examiner shall solicit or make request from any suitor, solicitor, or other person, or offer inducements to have special examinations taken before him, nor shall any one do so on his behalf with his knowledge or assent, on pain of forfeiture of office. 60 V. c. 14, s. 57.

Examinations not to be solicited.

175. The Lieutenant-Governor in Council shall fix a schedule of fees to be charged and taken by special examiners, and may make rules and regulations in respect thereof; and no other fees or charges than those fixed by the said schedule shall be charged or taken. 60 V. c. 14, s. 58.

Fees of examiners.

176. Where it appears to the Lieutenant-Governor in Council that the Local Registrar or Deputy Clerk of the Crown or Clerk of the County Court elsewhere than in Toronto, is infirm or ill, or is absent on leave, or is otherwise unable or unfit to act personally as special examiner, the Lieutenant-Governor in Council may appoint the shorthand writer for the County Court, or some other efficient person temporarily or otherwise to act as such special examiner, instead of the said Local Registrar, Deputy Clerk of the Crown, or Clerk of the County Court. 60 V. c. 14, s. 59.

Appointment of special examiners, *pro tem.*

177. Any officer of the Supreme Court, the Court of Appeal or the High Court shall, for the purposes of any proceedings directed by the Court to be taken before him, have full power, to administer oaths, to take affidavits, to receive affirmations and to examine parties and witnesses as the Court may direct. 58 V. c. 12, s. 176. 60 V. c. 15, Sched. A (67).

Administration of oaths.

178. Sheriffs, Deputy Sheriffs, Gaolers, Constables and other peace officers, shall aid, assist and obey the Court and the Judges thereof respectively in the exercise of the jurisdiction conferred by this Act, and otherwise, whenever by any general or other order of the Court or by order of a Judge thereof, required so to do. 58 V. c. 12, s. 177.

Sheriffs, Gaolers, etc., to be officers of the Court.

179. All gaols in Ontario shall be prisons of the High Court. 58 V. c. 12, s. 178.

Gaols to be prisons of the Court.

180.—(1) There shall be paid out of the Consolidated Revenue Fund of this Province as and for the salaries of officers of the said Courts, who are not paid by fees or otherwise, such sums as the Legislature may from time to time appropriate for such purpose.

Salaries, etc.

(2) The salaries of all officers of the Court which are payable out of the Consolidated Revenue Fund shall be paid monthly, but the payment to be made in each case on the first day of payment which happens after the right thereto accrues, shall be a ratable proportion of a month's salary, according to the time then elapsed since the accrual of the right; and in case of a vacancy, the person who vacates the office, his executors or administrators shall be entitled to a proportional part of his salary according to the time elapsed between the vacancy and the last payment. 58 V. c. 12, s. 179.

Certain officers not to take fees for their own use.

181. Unless specially authorized, neither the Master in Ordinary, the Clerk of the Crown and Pleas, the Master in Chambers, the Registrars, nor any of their deputies, nor the Process Clerk, nor the Clerk in Chambers, nor the Accountant, nor any of their clerks, shall take for his own benefit, directly or indirectly, any fee or emolument, save the salary to which he may be entitled by law; but the like sums and fees heretofore payable on proceedings in the offices of the said officers shall continue to be payable; and all such fees shall form part of the Consolidated Revenue Fund of the Province, and shall be payable in stamps, subject to the provisions of *The Act respecting Law Stamps*. 58 V. c. 12, s. 180 (1); 59 V. c. 18, Sched. (31).

Rev. Stat. c. 25.

Fees on writs and process.

182. The fees payable on all writs and process issued out of the Central Office at Toronto shall be payable in stamps, subject to the provisions of *The Act respecting Law Stamps*. 58 V. c. 12, s. 182, part; 59 V. c. 18, Sched. (32).

Rev. Stat. c. 25.

Fees on certain proceedings in High Court.
Rev. Stat. c. 25.

183. In addition to all fees, otherwise authorized to be levied on proceedings in the High Court, the following fees shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps*.

On every writ of summons, capias or subpoena, and on every other writ or other document of what nature and description soever, having the seal of the Court affixed thereto.....	\$ c.
On every judgment entered.....	0 50
On every certificate of action instituted, judgment or decretal order made.....	0 60
On the setting down on the paper for argument of every special case, points reserved, special verdict or appeal case.....	0 50
On entering every action for trial or assessment.....	0 30
On every rule or order of Court issued.....	2 00
On every rule or order of Court issued.....	0 20
On taxation of every bill of costs.....	0 20

58 V. c. 12, s. 183.

Fees on certain proceedings in Court of Appeal.
Rev. Stat. c. 25.

184. In addition to all fees otherwise authorized to be levied on proceedings in cases brought to the Court of Appeal from the High Court, the following fees shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps*.

On every appeal entered	\$4 00
On every judgment, decree or order of the Court passed and entered	2 00
	58 V. c. 12, s. 184.

LOCAL JUDGES OF THE HIGH COURT.

185. Except in the County of York, the Judges of the several County Courts shall be Judges of the High Court for the purposes of their jurisdiction in actions in the High Court; and in the exercise of such jurisdiction may be styled "Local Judges of the High Court," and shall, in all causes and actions in the High Court, have, subject to the Rules of Court, power and authority to do and perform all such acts, and transact all such business in respect to matters and causes in and before the High Court as they are by Statute or Rules of Court in that behalf from time to time empowered to do and perform. 58 V. c. 12, s. 185 (1).

County Court Judges to be local Judges of High Court.

TRANSFERRING CAUSES FROM COUNTY OR DIVISION COURTS TO HIGH COURT.

186. In any case in a County or Division Court where the defence or counterclaim of the defendant involves matter beyond the jurisdiction of the Court, the High Court or any Judge thereof, may on the application of any party to the proceeding, order that the whole case be transferred from such Court to the High Court, and thereupon all the proceedings in such case shall be transmitted by the clerk or other proper officer, of the County or Division Court to the said High Court; and the same shall thenceforth be continued and prosecuted in the High Court as if it had been originally commenced therein. 58 V. c. 12, s. 186.

Transfer to High Court from County and Division Courts.

MISCELLANEOUS.

187.—(1) Every Order in Council determining the commutation allowance or the salary of any Judge, Official Guardian or other officer under the authority of this Act, shall be laid before the House of Assembly forthwith, if the Legislature is in session at the date of the order, and if the Legislature is not then in session, the order shall be laid before the said House within the first seven days of the session next after the Order in Council is made.

Order in Council as to allowances and salaries subject to ratification by Legislative Assembly.

(2) In case the Assembly at the said session, or if the session does not continue for three weeks after the said order is laid before the House, then at the ensuing session of the Legislature, disapproves by resolution of such Order in Council, either wholly, or so far as relates to any of the persons therein named, the Order in Council, so far as so disapproved of, shall have no effect from the time of such resolution being passed. 58 V. c. 12, s. 187.

Disapproval of order by Assembly.

188. This Act shall not affect the issue of any Commissions of Assize, Nisi Prius, Oyer and Terminer, Gaol Delivery, or

Saving as to Commissions of Assize, etc.

other Commission for the discharge of civil or criminal business on circuit or otherwise; or the authority of a Judge or a retired Judge of any of the Superior Courts, or a Judge of a County Court, or one of Her Majesty's Counsel learned in the law, to preside without any Commission at any Court of Assize, Oyer and Terminer, and General Gaol Delivery, or at a Court held under this Act in the exercise of the jurisdiction now belonging to the Courts of Assize, Oyer and Terminer, and General Gaol Delivery, or the authority of any Judge or retired Judge of a Superior or County Court, or Counsel learned in the law, to hold any sitting for the hearing of causes; and any such Judge or Counsel shall after the commencement of this Act have the same authority to preside as aforesaid, or to hold any sitting of the High Court for the hearing of causes in the High Court, which such Judge or Counsel has to preside at Courts of Assize, Oyer and Terminer, and General Gaol Delivery, and any such Judge or Counsel when presiding as aforesaid with or without a Commission, or when holding any sitting as aforesaid, shall be deemed to constitute a Court. 58 V. c. 12, s. 188.

All books in which writs, judgments, etc., are entered to be open to inspection.

189. Every person shall have access to and be entitled to inspect the several books of the High Court and of the County Courts, containing records or entries of the writs issued, judgments entered, and chattel mortgages and bills of sale filed; and no person desiring such access or inspection shall be required, as a condition to his right thereto, to furnish the names of the parties or the style of the causes or matters in respect of which such access or inspection is sought; and the Clerk of the Crown and Pleas, Registrars, Deputy Clerks of the Crown, Deputy and Local Registrars of the High Court and all Clerks of the County Courts of the Province respectively, shall, upon demand or request, produce for inspection any writ of summons or copy thereof, and any judgment roll, or chattel mortgage, or bill of sale so issued, entered or filed in their respective offices, or of which records or entries are, by law, required to be kept in such several books of the High Court and County Courts respectively. 58 V. c. 12, s. 189; 59 V. c. 18, Sched. (33).

Fees on inspection.

190. The fees payable in respect of such inspection of books shall be twenty-five cents as for a general search, and ten cents for each writ of summons, judgment roll, chattel mortgage or bill of sale so inspected, and ten cents per folio shall also be payable for all extracts, whether made by the person who makes the search or by the officer. 58 V. c. 12, s. 190.

This Act not to apply to criminal matters or Dominion elections.

191. Nothing in this Act shall affect the practice or procedure in criminal matters, or matters connected with Dominion controverted elections. 58 V. c. 12, s. 191; 59 V. c. 18, Sched. (35).

CHAPTER 52.

An Act respecting the Judges of the Supreme Court of Judicature for Ontario.

WHEREAS several of the Judges of the Supreme Court of Judicature for Ontario for many years received an annual allowance from this Province of \$1,000 as Heir and Devisee Commissioners, and from 1869 until 1879, inclusive this allowance was made to all the Judges theretofore appointed; and whereas divers other important duties have, from time to time, been assigned by the Provincial Legislature to the Judges of the said Supreme Court of Judicature for Ontario outside of litigious matters and the ordinary duties of the said Judges, including amongst other particulars, duties connected with Provincial Election Trials, Estate Bills, regulations to govern the practice of the Surrogate Courts, County Courts and Division Courts, as well as the practice of the respective branches of the said Supreme Court; and whereas, having reference to the present salaries of the said Judges under Dominion legislation, it is reasonable for this Province henceforward to extend to all the Judges of the said Supreme Court the said annual allowance of \$1,000, in acknowledgement of their services in the said matters and otherwise, the said allowance being deemed to include their services as members of the Heir and Devisee Commission, their travelling expenses in election trials, and all other services which by any past or future Provincial Legislation they may from time to time be called on to render in addition to their ordinary duties;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Every Judge of the Supreme Court of Judicature for Ontario who is not entitled to receive an allowance under section 3 of *The Revised Statute respecting the Heir and Devisee and Assignee Commission* shall be paid out of the Consolidated Revenue of the Province the annual sum of one thousand dollars until an addition of that sum is made to his present salary by the Parliament of Canada; Provided that in case of an addition being so made of a less sum than one thousand dollars, there shall be paid to each of the said Judges out of the Consolidated Revenue of the Province an annual sum equal to the difference between the sum so added to his present salary and the said sum of one thousand dollars. This proviso shall not apply where any such addition is made to the present salaries of the said Judges in lieu of an allowance for circuit or travelling expenses. 56 V. c. 12, s. 1; 57 V. c. 18, s. 1; 60 V. c. 14, s. 78.

Annual payment of \$1,000 to Judges of Supreme Court of Judicature. Rev. Stat. c. 31. Proviso.

CHAPTER 53.

An Act respecting Courts of Assize and Nisi Prius and of Oyer and Terminer and General Gaol Delivery.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

Special Com-
missions may
issue.

1. The Lieutenant-Governor may issue Commissions for holding Courts of Assize, Nisi Prius, Oyer and Terminer, and General Gaol Delivery, or Special Commissions of Oyer and Terminer or of General Gaol Delivery for the trial of offenders, whenever he deems it expedient. R. S. O. 1887, c. 45, s. 1. [See also 54-55 V. (Dom.) Cap. 28, s. 4.]

Sittings of As-
size and Nisi
Prius may be
distinct from
Courts of Oyer
and Terminer
and General
Gaol Delivery.

2. The sittings of the Courts of Assize and Nisi Prius in any County may, in the discretion of the Judge or Judges appointed to preside or presiding thereat, be held separate and apart from the Courts of Oyer and Terminer and General Gaol Delivery either on the same day or on a different day. R. S. O. 1887, c. 45, s. 2.

To whom
commissions
may issue.

3.—(1) The commissions shall always contain the names of the Judges of the High Court; and may also contain the names of any of the Judges of any of the County Courts and of any of Her Majesty's Counsel learned in the law appointed for Upper Canada or for the Province of Ontario; and the said Courts shall be presided over by one of the Chief Justices or Judges of the High Court, or in their absence by one of such County Court Judges or Counsel.

Who to pre-
side.

Associate Jus-
tices dispensed
with.

(2) It shall not be necessary to name any Associate Justices in any Commissions of Oyer and Terminer and General Gaol Delivery, or that any Associate Justices should be nominated to, or attend or be present at, any Court of Oyer and Terminer and General Gaol Delivery. R. S. O. 1887, c. 45, s. 3.

Powers of the
presiding
Judge at any
Court of
Assize, etc.

4. Any Judge or Queen's Counsel presiding at any sittings of the Court of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, or of any of such Courts, shall while so presiding possess, exercise and enjoy all the powers and authorities which are now or were formerly granted in commissions issued for holding all or any of the said Courts, or which a Judge of the High Court would have, if presiding thereat. R. S. O. 1887, c. 45, s. 4.

5. Any person acting as a Judge of Assize and Nisi Prius may, in and for the county for which he is acting, and while the sittings of the said Court last, act as a Judge in Chambers in all matters entered for trial before him, as if he were a Judge of the High Court. R. S. O. 1887, c. 45, s. 5.

Any one sitting as Judge of Assize may during sittings act as Judge in Chambers.

6. Where the Judge whose duty it is to hold any Court of Assize and Nisi Prius, or of Oyer and Terminer and General Gaol Delivery, does not arrive in time, or is not able to open the Court on the day appointed for that purpose, the Sheriff of the county in which the Court should be held, or, in his absence, his Deputy, may, after the hour of six of the clock in the afternoon of such day, adjourn by his proclamation, the Court which should have been opened on that day, to an hour on the following day to be by him named, and so from day to day until the Judge arrives to open the Court, or until the Sheriff receives other direction from the Judge in that behalf. R. S. O. 1887, c. 45, s. 6.

Course to be pursued by the Sheriff if the Judge does not arrive on the day appointed.

CHAPTER 54.

An Act respecting County Judges and the Local Courts.

SHORT TITLE, s. 1.

COUNTY JUDGES AND JUNIOR JUDGES,
ss. 2-8.

DEPUTY JUDGES, ss. 9-11.

OATH OF OFFICE, s. 12.

DUTIES AND POWERS OF JUDGES,
ss. 13-18.

COUNTY COURT DISTRICTS, ss. 19-25.

INTERPRETERS, s. 26.

SHORTHAND WRITERS, s. 27.

Local Courts of County of York,

s. 28.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Local Courts' Act*." R. S. O. 1887, c. 46, s. 1.

JUDGES AND JUNIOR JUDGES.

Tenure of
office by
County Court
Judges.

Removal.

2. The Judges of the several County Courts now holding office, as well as the Judges hereafter to be appointed, shall hold their offices during good behaviour, but shall be subject to be removed by the Lieutenant-Governor for inability, incapacity or misbehaviour, established to the satisfaction of the Lieutenant-Governor in Council. R. S. O. 1887, c. 46, s. 2. [See also R. S. C. c. 138, s. 2].

Qualification
of Judges.

3. The person appointed to be the Judge or Junior Judge of a County Court shall be a Barrister of at least ten years standing at the bar of Ontario. R. S. O. 1887, c. 46, s. 3; 58 V. c. 13, s. 27.

The Senior
Judge to be
styled "The
Judge," etc.

4. In case more than one County Court Judge is appointed for any county, then, unless otherwise expressed in the commission, the Judge whose commission has priority of date shall be styled "The Judge of the County Court of " (as the case may be), and the other Judge of the same Court shall be styled "The Junior Judge" thereof. R. S. O. 1887, c. 46, s. 4 (1).

5.—(1) No Junior Judge shall be appointed in or for any county or union of counties, unless the population of the county or union of counties exceeds 80,000, but where the population exceeds 80,000 a Junior Judge may be appointed. Appointment of junior county court judges.
 R. S. O. c. 46, s. 4 (2); 60 V. c. 14, s. 62 (1).

(2) In the case of any county or union of counties in or for which there are two Judges, if one of such Judges dies or resigns his office, or is removed therefrom, there shall be no appointment of another Judge in his place unless at the time of such death, resignation or removal from office the population of such county or union of counties exceeds 80,000, and there shall thereafter be but one Judge in and for such county or union of counties until the population thereof shall exceed 80,000. No appointment to vacancy unless population over 80,000.

(3) It is hereby declared and enacted that the true meaning and effect of section 15 of *The County Courts Act, 1896*, was that in the case of any county or union of counties for which there were at the time of the passing of that Act two Judges, if one of such Judges died or resigned or was removed from his office, there should be no appointment of another Judge in his place unless the population of such county or union of counties at the time of such death, resignation or removal from office exceeded 80,000, and that there should be thereafter but one Judge in and for such county or union of counties, until the population thereof should exceed 80,000. Interpretation of 59 V. c. 19, s. 15.

(4) If any commission issued to a junior or second Judge in and for any county or union of counties since the said *The County Courts Act, 1896*, was passed, stated or recited, or if any such commission hereafter issued states or recites that the population of such county or union of counties exceeds 80,000, the fact so stated shall be conclusively assumed, and shall not be controverted; and the appointment, authority or jurisdiction of the Judge appointed thereby shall not be open to question on the ground that such population did not at the time of such appointment or the issue of such commission, or at any time thereafter, exceed 80,000. Presumption as to population.

(5) This section shall not apply to any county in which is situate a city, and for which county a Junior Judge was appointed prior to the 13th day of April, 1897, nor to the counties of Grey, Renfrew, Stormont Dundas and Glengarry, Ontario, Bruce, Simcoe, and Huron, nor to Victoria including Haliburton. 60 V. c. 14, s. 62 (2-5). Not to apply to certain counties.

6. A second Junior Judge may be appointed for the County of York, who shall be called the Second Junior Judge of the County of York; he shall have the same qualifications as other Judges of County Courts; and wherever, by any statute of this Province, jurisdiction and powers are conferred, or duties and obligations imposed, upon a Junior County Judge, the like jurisdiction, powers, duties and obligations are hereby Appointment of Second Junior Judge for County of York.

conferred on and assigned to, and may be exercised and shall be discharged by, the Second Junior Judge; and all other provisions of law with respect to a Junior Judge shall apply to the said Second Junior Judge. 54 V. c. 15, s. 1.

To reside
within the
County.

7. Every County Court Judge shall reside within the county or union of counties of which his commission designates him as Judge; and there shall continue to be a resident Judge in each county or union of counties, now having a County Judge. R. S. O. 1887, c. 46, s. 5.

Not to
practise.

8. No Judge shall, during the continuance of his appointment, directly or indirectly practise in the profession of the law as Counsel, Solicitor, Notary Public, or Conveyancer or do any manner of conveyancing, or prepare any papers or documents to be used in any Court of this Province, under the penalty of forfeiture of office and the further penalty of \$400 to be recovered by any person who sues for the same in the High Court, and one-half of the pecuniary penalty shall belong to the party suing, and the other half to Her Majesty. R. S. O. 1887, c. 46, s. 6.

Penalty.

DEPUTY JUDGES.

A Deputy
Judge may be
appointed.

9.—(1) A Barrister of at least three years' standing at the Bar of Ontario, may be appointed to be Deputy Judge for any county.

(2) The appointment may be made notwithstanding that the office of Judge is vacant by death, or resignation, or that the Judge is ill or absent at the time of the appointment of such Deputy Judge. R. S. O. 1887, c. 46, s. 7.

Tenure of
office and
powers.

10. Every Deputy Judge shall hold office during pleasure, and in case of the death, illness, or absence of the Judge, shall have authority to perform in the place of the Judge, in the County for which he is Deputy, all the duties of and incident to the office of Judge of the County Court and Division Courts, and all acts required or allowed to be done by the Judge of the County Court under this or any other statute, unless when by such statute it is otherwise expressly provided. R. S. O. 1887, c. 46, s. 8.

Not to be dis-
abled from
practising.

11. No Deputy Judge shall be disabled from practising the profession of the law while holding his appointment. R. S. O. 1887, c. 46, s. 9.

OATH OF JUDGES.

Oath of office.

12. No County Court Judge, or Deputy Judge, shall enter upon the duties of his office until he has taken the following oath before some person appointed by the Lieutenant-Governor to administer the same, that is to say:

"I, _____, do swear that I will (*in the case of a Deputy Judge add the words as occasion may require,*) truly and faithfully, according to my skill and knowledge, execute the several duties, powers and trusts of Judge of the County Court of the County of _____ (*or United Counties of _____, as the case may be*), and of the several Division Courts within the same, without fear, favour or malice: So help me God."

R. S. O. 1887, c. 46, s. 10.

DUTIES AND POWERS OF JUDGES.

13. Every County Court Judge, not including a Deputy County Court Judges to be *ex-officio* Justices of the Peace. Judge, shall be *ex-officio* a Justice of the Peace for every county and part of Ontario, and may act in the office of Justice of the Peace in any part of the Province; and no property or other qualification shall be required in the case of a County Court Judge. R. S. O. 1887, c. 46, s. 11.

14. Where any power or authority is, by this Act or by any statute now in force or which may hereafter be passed, conferred upon or is otherwise exercisable by the Senior Judge of a County Court, whether with reference to the holding of any of the courts of the county which the said Judge may hold, or to the business of any of the said Courts, or to any other matter or thing over which the said Judge has jurisdiction, either by virtue of any statute or otherwise howsoever, the like power and authority shall be possessed by, and may be executed by the Junior Judge, subject, however, to the general regulation and supervision of the Senior Judge. Powers of Junior Judge R. S. O. 1887, c. 46, s. 12.

15.—(1) At any sittings of the County Court at the same time as the sittings of the Court of General Sessions of the Peace, or of a Division Court in any county, or of any two of the said Courts at the same time, either the Senior or Junior Judge or both of them, may, if the Senior Judge thinks fit, preside in any of the said Courts, or each of them in one of said Courts at the same time, so that two of the said Courts may sit and the business therein be proceeded with simultaneously. Either or both Judges to preside in any of the Courts of the County or one in each Court simultaneously. R. S. O. 1887, c. 46, s. 13.

(2) The County Court of the County of York, the Court of General Sessions of the Peace, and the Division Courts of the said county, or any three or more of the said Courts, may sit at the same time, and the business thereof be proceeded with simultaneously, each of the said Courts so held to be presided over by one or more of the Judges of the County Court, or as the case may require. Local Courts in York may sit simultaneously. 54 V. c. 15, s. 2.

16. It shall be the duty of a County Court Judge to hold any of the Courts in any county other than his own, or to perform any other duty of a County Court Judge in any county upon being required so to do by an order of the Governor-General made at the request of the Lieutenant-Governor or, Duty of Judge to act outside his County.

without any such order, the Judge in any county may, if he sees fit, perform any judicial duties in any county other than his own on being requested to do so by the Judge to whom the duty for any reason belongs. R. S. O. 1887, c. 46, s. 14.

Retired
County Judges
may act for
County Judges
in certain
cases.

17. Any retired County Court Judge may hold any Court or perform any other duty of a County Court Judge, in any county, on being requested to do so by the Judge to whom the duty for any reason belongs, or upon being authorized so to do by an order of the Governor-General, made at the request of the Lieutenant-Governor. R. S. O. 1887, c. 46, s. 15.

Power of a
Judge so
acting.

18. In the cases mentioned in the next preceding two sections, the Judge, acting in compliance with such direction or request, shall have jurisdiction to hold all or any of the Courts of the county in which he so acts, and to do or adjudicate upon all matters or things in such county and whether relating to the business of any of the said Courts or to any other matter or thing over which the Judge of the County Court of the county has jurisdiction, either by virtue of any statute or otherwise howsoever; and no act of such Judge in any county shall be open to question in any legal proceeding on the alleged ground that he was not the proper Judge to perform the duty, or that the same had not been regularly or otherwise assigned to him, or had not been performed at such request, or by such direction, as the law requires. R. S. O. 1887, c. 46, s. 16.

COUNTY COURT DISTRICTS.

Grouping
counties into
districts.

19.—(1) Any part or parts of the Province may, for the purposes of this Act, be divided into districts, or groups of counties, by proclamation of the Lieutenant-Governor, at such time or times as he may deem expedient; and such division shall take effect, and the districts thereby formed be erected and established, on such day after the first publication of the proclamation in the *Ontario Gazette* as the proclamation may name.

(2) The districts so erected may, from time to time be dissolved, re-established, altered or re-arranged by the Lieutenant-Governor by like proclamation; and the time when the dissolution, alteration or re-arrangement is to take effect may be named, proclaimed and published in the *Ontario Gazette* in like manner. R. S. O. 1887, c. 46, s. 17.

What Judges
shall hold the
Courts.
Rev. Stat.
c. 224.

20. After the erection of a district for the purposes of this Act, the several County Courts, Courts of General Sessions, Division Courts, Courts of Appeal under *The Assessment Act*, Courts for the Revision of Voters' Lists and all other courts which a County Judge may hold in each county, shall be held by the Judges (including therein the Junior Judges) in the

district, in rotation, as far as may in each district be just, convenient and practicable, in view of the respective ages, length of service, and strength of the several Judges and the special duties assigned to Junior Judges, as well as in view of the other offices (if any) held by any of the Judges, and all other circumstances. R. S. O. 1887, c. 46, s. 18.

21.—(1) The Judges in any or each district so erected shall meet together at least once in every year; and the Judges present or a majority of them, shall arrange and appoint which of the said Courts in the district shall be held by each of the Judges of the district throughout the ensuing year, and what other judicial work each shall discharge in the respective counties of the district throughout the year.

Annual meeting of Judges to arrange as to business.

(2) The Judges may also (subject to the approval of the Lieutenant-Governor in Council, to be notified in the *Ontario Gazette*) fix and appoint the times in the months of June and December respectively in every year, for the holding of the County Courts and General Sessions of the Peace in every county or union of counties of such district, and the Courts shall be held on the days so appointed. R. S. O. 1887, c. 46, s. 19.

Judges of a County Court District may regulate sittings in June and December.

22.—(1) The first meeting shall take place at such place and time as may be named for that purpose in the proclamation erecting and establishing a district of counties, or at the place and on the day the Judges of the district may agree upon in case the same are not named in the proclamation; and the meeting may be continued from day to day at the discretion of the Judges present.

First meetings, when and where to be held.

(2) The subsequent annual meetings shall be at such one of the county towns of the district, and at such place therein, and at such time, as the Judges of the district may unanimously agree upon, or as a majority present at the annual meeting may appoint, or as the Lieutenant-Governor may by Order in Council direct. R. S. O. 1887, c. 46, s. 20.

Subsequent meetings.

23. It shall be the duty of every Judge to whom any duty is assigned at such meeting, to perform the duty so assigned to him; and if he is, by reason of illness or other cause, unable to perform the same, it shall be his duty to do what is necessary, if he can, to have the duty performed by another person competent by law in that behalf. R. S. O. 1887, c. 46, s. 21.

Duty of the Judges.

24. In case no provision is made at such meeting for some duty belonging to the County Court Judges, or in case the provision made in that behalf proves abortive, it shall be the duty of the Judges of the district to see that the deficiency is supplied by some other person competent by law in that behalf, and to forthwith communicate what they do therein to the Provincial Secretary. R. S. O. 1887, c. 46, s. 22.

Absence or failure of provision made for performance of duties.

Powers outside his county of Judge of a county forming part of a District.

25. The Judge of any county, forming part of a district, may if he sees occasion, perform in any part of the district any judicial acts affecting the Courts or business of the county of which his commission designates him as Judge, and being within the legislative authority of this Province. R. S. O. 1887, c. 46 s. 23.

INTERPRETERS.

Appointment of official interpreters.

26. In case the Municipal Council of any county pass a resolution requesting or approving of the appointment of an official interpreter to act at the Courts held in that county, an appointment may be made accordingly in the same manner, and subject to the same terms and conditions, as provided in regard to shorthand writers by the next section and the said section shall apply as nearly as may be to the official interpreters. R. S. O. 1887, c. 46, s. 24.

SHORTHAND WRITERS.

Shorthand writers.

27.—(1) In case the Municipal Council of any county or the Municipal Councils of any county and a city or town united with the county for judicial purposes and not within the jurisdiction of the County Council, pass a resolution or resolutions, as the case may be, requesting or approving of the appointment of a shorthand writer to and for the Local Courts of the county, the Lieutenant-Governor may from time to time appoint a person to fill the office of shorthand writer for the said Courts, and such person shall be subject to the direction of the Senior Judge, or, in his absence, to the direction of the Junior Judge, and shall be entitled to such remuneration, either by salary or by fees, or partly by salary and partly by fees, as the Lieutenant-Governor in Council may from time to time direct; and if paid by salary only, the fees payable in respect of his duties as a shorthand writer shall go in reduction of his salary, and the balance, if any, shall be paid by the county quarterly, on the first day of January, April, July and October of every year.

Remuneration.

(2) The fees, and all matters relating to the duties of the said officer shall be determined and regulated from time to time by the Judges of the said County Court, subject to the approval of the Lieutenant-Governor in Council.

Fees and Duties.

City and town to contribute to salary.

(3) The city or town aforesaid, shall bear and pay the county for a proper proportion of the salary, and the proportion, in case the city or town and county disagree, shall be determined by arbitration, according to the provisions of *The Municipal Act*; and, subject to such agreement or arbitration, and until and unless the same determines a different proportion, the city or town shall pay to the county one-half, and the county's share shall be one-half of said salary.

Rev. Stat., c. 223.

(4) This section shall not apply to the County of York.
R. S. O. 1887, c. 46, s. 25.

28.—(1) The Lieutenant-Governor may from time to time ap- Shorthand writer for Local Courts of County of York.
point a person to fill the office of shorthand writer for the Local
Courts of the County of York, and such person shall be subject
to the direction of the Senior Judge, or, in his absence, to the
direction of the Junior Judge, and shall be entitled to such re-
muneration, either by salary or by fees, or partly by salary and
partly by fees, as the Lieutenant-Governor in Council may
from time to time direct: and if paid by salary only, the fees
payable in respect of his duties as a shorthand writer, shall go Remuneration.
in reduction of his salary, and the balance, if any, shall be paid
by the county quarterly, on the first day of January, April,
July and October of every year.

(2) The fees, and all matters relating to the duties of said Fees and duties.
officer shall be determined and regulated from time to time by
the Judges of the said County Court, subject to the approval
of the Lieutenant-Governor in Council.

(3) The City of Toronto shall bear a proper proportion of Apportionment of salary between city and county.
the salary, and the proportion, in case the city and county
disagree, shall be determined by arbitration, according to the
provisions of *The Municipal Act*; and, subject to such agree- Rev. Stat. c. 224.
ment or arbitration, and until and unless the same determines
a different proportion the city shall pay to the county one-
half, and the county's share shall be one-half of the salary.
R. S. O. 1887, c. 46, s. 26.

[For certain Dominion enactments as to tenure of office
and powers of Local Judges, see 54-55 V. c. 28 Dom.].

CHAPTER 55.

An Act respecting the County Courts.

SHORT TITLE, s. 1.	COSTS IN ACTIONS REMOVED, s. 35.
STYLE OF THE COURTS, s. 2.	VENUE FOR CERTAIN ACTIONS, s. 36.
JUDGES, ss. 3, 4.	PLEADING AND PRACTICE, ss. 37-41.
CLERKS, ss. 5-12.	COSTS WHERE NO JURISDICTION s. 42.
SPECIAL EXAMINERS OF HIGH COURT TO BE OFFICERS OF COUNTY COURTS, s. 13.	EXECUTION, ss. 43, 44.
SITTINGS, ss. 14-21.	POWER TO ENFORCE RULES, s. 45.
JURISDICTION, ss. 22-29.	ACCOUNTS AND INQUIRIES, ss. 46-49.
REMOVAL OF ACTIONS INTO HIGH COURT, ss. 30-34.	APPEALS, ss. 50-57.
	RULES OF LAW, s. 58.
	RULES OF COURT, s. 59.
	TARIFF OF COSTS, s. 60.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The County Courts Act.*" R. S. O. 1887, c. 47, s. 1.

Existing Courts continued. 2. There shall be in every county or union of counties a Court of Record, to be styled the County Court of the County of (or United Counties of as the case may be); and the County Courts already established under such names respectively, and all existing commissions, Judges and officers of such County Courts shall continue, subject to the provisions of this Act. R. S. O. 1887, c. 47, s. 2.

JUDGES.

Judges. 3. The County Court in every county shall be presided over by the Judge or Junior or acting Judge or Deputy Judge as provided by *The Local Courts Act*. R. S. O. 1887, c. 47, s. 3

Rev. Stat.
c. 54.

[As to Judges being Local Judges of the High Court. See *Cap. 51, sec. 185*; and as to Judges exercising authority of Master in Chambers and local Masters see *Consolidated Rules of Supreme Court of Judicature*.

Illness or
absence of
County
Judge

4. In case of the illness or absence of the Judge of a County Court, such County Court may be presided over by a Judge of any other County Court in the Province, or by one of Her

Majesty's Counsel learned in the law appointed for Upper Canada, or for the Province of Ontario, upon such Judge or Counsel being requested so to act by the first mentioned Judge. 57 V. c. 20, s. 9

CLERKS.

5. The Lieutenant-Governor shall from time to time appoint, under the great seal, a Clerk to every County Court, to hold office during pleasure. R. S. O. 1887, c. 47, s. 4. The Lieutenant-Governor to appoint clerks.

6. Every Clerk of a County Court shall give security for the due performance of the duties of his office, in such sum and with so many sureties, and in such manner and form as the Lieutenant-Governor directs. R. S. O. 1887, c. 47, s. 5. Clerks to give security.

7. The Clerk of every County Court shall keep his office in the Court House, or if there be no room therein, then in such place within the county town, as the Judge directs; Provided, however, that the Clerk of the County Court of the County of Essex, may keep an office in some convenient place in the City of Windsor, in the County of Essex, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval thereof by the Lieutenant-Governor in Council. R. S. O. 1887, c. 47, s. 6. Place of office. Proviso.

8. Subject to Rules of Court as to office hours during vacations and in Toronto on Saturdays, the office of the Clerk of the County Court, shall be kept open from 10 o'clock in the forenoon until 4 o'clock in the afternoon, except upon legal holidays or other special days appointed by an Act of the Legislature. 60 V. c. 3, s. 3; c. 14, s. 89. Office hours.

9. The Clerk of every County Court shall, from time to time as often as required so to do by the County Crown Attorney of his county, and at least once in every three months, deliver to him, verified by the affidavit of such Clerk, sworn before the Judge or a Justice of the Peace of the county, a full account in writing of all fines levied by the Court. R. S. O. 1887, c. 47, s. 7. Clerk to render accounts to County Crown Attorney.

[As to return of fees by County Court Clerks see Cap. 16, sec. 29, and as to payment of proportion to Provincial Treasurer see Cap. 18.]

10. The Clerk of every County Court shall tax costs, subject, in the event of a dispute arising at taxation, to an appeal to the Judge of the Court. R. S. O. 1887, c. 47, s. 8. Clerk to tax costs.

Clerk not to draw or advise on documents.

11. No clerk of a County Court shall, for fee or reward draw or advise upon a chattel mortgage or other paper or document connected with the duties of his office and for which a fee is not expressly allowed by the tariff in that behalf. R. S. O. 1887, c. 47, s. 9.

Clerk of the Peace to act *pro tem* in case of the death, etc., of the County Court Clerk.

12.—(1) In the event of the death, resignation or removal of the Clerk of a County Court the Clerk of the Peace for the County shall, *ex-officio*, be Clerk of the County Court until another person is appointed and assumes the duties of the office, and every Clerk of the Peace while Clerk of the County Court as aforesaid shall, except in the County of York, be also *ex-officio* Deputy Clerk of the Crown and Registrar of the Surrogate Court, or in case the said Clerk of the County Court was Local Registrar, the said Clerk of the Peace shall, while he holds the said office, be *ex-officio* Local Registrar; Provided, however, that this enactment as to the Clerk of the Peace being *ex-officio* Registrar of the Surrogate Court, shall not apply to any case where at the time of the death, resignation or removal of the Clerk of the County Court, he did not hold the office of Registrar of the Surrogate Court. R. S. O. 1887, c. 47, s. 10 (1); 60 V. c. 15, Sched. A (12).

Proviso.

(2) The Clerk of the Peace shall add the words *pro tem* when affixing his official designation as Clerk of the County Court, Deputy Clerk of the Crown, Local Registrar or Registrar of the Surrogate Court to his signature in any writs, rules, grants or orders, signed by him under the provisions of this section. R. S. O. 1887, c. 47, s. 10 (2).

SPECIAL EXAMINERS.

Special examiners of High Court to be officers of County Court.

13. All special examiners of the High Court heretofore or hereafter appointed, shall be officers of the several County Courts of the Province and shall possess like powers in County Court cases, as those now possessed and exercised by them in cases in the High Court. R. S. O. 1887, c. 47, s. 11.

SITTINGS.

Sittings in lieu of terms.

14.—(1) In lieu of terms, the several County Courts shall in each year hold four quarterly sittings, which (except in the County of York), shall commence respectively on the second Monday in the month of January and the first Monday in the months of April, July and October in each year, and end on the Saturday of the same week, unless extended by order of the Judge.

(2) The said quarterly sittings of the County Court of the County of York shall commence on the second Monday in January, June and October, and the first Monday in April in each year; and shall end on the Saturday of the same week, unless extended by order of the Judge.

(3) It shall not be necessary for the Sheriff or his officers to attend the said quarterly sittings of the County Court.
R. S. O. 1887, c. 47, s. 12.

15. Except in the County of York, and subject to the provisions of section 21 of the *Local Courts Act*, sittings of the said County Courts, for the trial of issues of fact and assessment of damages, shall be held semi-annually, to commence on the second Tuesday in the months of June and December in each year. R. S. O. 1887, c. 47, s. 13 (1).

Trial sittings of County Courts.
Rev. Stat. c. 54.

16. The County Court of the County of York shall hold four such sittings in each year, to commence respectively on the first Tuesday in the months of December and March, and on the second Tuesday in the months of May and September in each year. R. S. O. 1887, c. 47, s. 13 (2).

In County of York.

17. Except in the County of York, there shall be sittings of the several County Courts of this Province on the first Tuesday in the months of April and October in each year, whereat all issues of fact in any civil action brought or pending in the Court wherein the sittings may be, and every assessment and inquiry of damages in such action may be heard, tried and assessed by the Judge of such Court without the intervention of a jury, in those cases where no jury is required. R. S. O. 1887, c. 47, s. 14.

County Court sittings without a jury in April and October.

18. The sittings of the County Courts for the trial of jury and non-jury cases shall not open earlier than one of the clock in the afternoon on the first day of the sittings, but this shall not prevent a non-jury trial being begun before one of the clock with the consent of the parties. 57 V. c. 20, s. 12.

Sittings on first day to commence at one o'clock in the afternoon.

19. In addition to the regular sittings of the several County Courts, the Judge of every County Court may, at such times as he appoints for the purpose, hold additional sittings of such Court for the trial of issues of fact to be tried in such Court by a Judge without a jury; and he shall hold such sittings as often as may be requisite for the due despatch of business. R. S. O. 1887, c. 47, s. 15.

Power to hold additional sittings.

20. While sittings of the County Court of any County which has a Senior and Junior Judge, are being held for the trial of issues of fact and assessment of damages, the Judges of the said Court, or any two persons authorized to hold the sittings of such Court, may, in case the General Sessions of the Peace have been adjourned or have terminated, sit separately, one for the trial of causes where a jury is required, and the other for the trial of causes to be tried without a jury. R. S. O. 1887, c. 47, s. 16

Concurrent sittings for trial of jury and non-jury cases.

Adjourning
County Courts
owing to
illness of
Judge, etc.

21.—(1) Where, from illness or from other casualty, the Judge who is to hold the Sittings of the County Court is unable to hold the same at the time appointed therefor, the Sheriff of the County, or in his absence his Deputy, may adjourn by his proclamation the said Court to any hour on the following day, to be by him named, and so from day to day until the Judge is able to hold such Court, or until he receives other directions from the Judge or Provincial Secretary.

Provincial
Secretary to
be notified.

(2) The Sheriff shall forthwith notify any adjournment to the Provincial Secretary, for the information of the Lieutenant-Governor. R. S. O. 1887, c. 47, s. 17.

JURISDICTION.

Matters not
to be within
jurisdiction of
County
Courts.

22. Except in the cases of actions in which, by section 27 of this Act, or by any other Act jurisdiction is conferred upon County Courts or a Judge thereof, the said Courts shall not have cognizance of any action:—

1. In which the title to land of a greater value than \$200 is brought in question; or

2. In which the validity of any devise, bequest or limitation exceeding \$200 under any will or settlement is disputed, nor where the assets of the estate or fund out of which the amount in question is payable exceeds \$1,000; or

3. For libel and slander; or

4. For criminal conversation or seduction; or

5. Against a Justice of the Peace for anything done by him in the execution of his office, if he objects thereto. 59 V. c. 19, s. 1.

Jurisdiction
allowed.

23. Subject to the exceptions contained in the last preceding section, the County Courts shall have jurisdiction;

1. In all personal actions where the debt or damages claimed do not exceed the sum of \$200;

2. In all causes and actions relating to debt, covenant and contract, to \$600, where the amount is liquidated or ascertained by the act of the parties or by the signature of the defendant;

3. To any amount on bail-bonds given to a Sheriff in any case in a County Court, whatever may be the penalty;

4. On recognizances of bail taken in a County Court, whatever may be the amount recovered or for which the bail therein may be liable;

5. In actions of replevin where the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$200, as provided in *The Replevin Act*.

6. In interpleader matters, as provided by the rules respecting interpleader; R. S. O. 1887, c. 47, s. 19; 59 V. c. 19, s. 2.

7. In any cause or action relating to debt, covenant and contract where the amount is liquidated or ascertained by the act of the parties or by the signature of the defendant, when the plaintiff and defendant, before the issue of the writ, agree by memorandum in writing signed by them and filed upon the application for the writ, that the Court shall have power to try the action ;

Where parties consent in actions for liquidated damages.

8. In actions for the recovery of or for trespass or injury to land where the value of the land does not exceed \$200 ;

Recovery of land.

9. In actions by persons entitled to and seeking an account of the dealings and transactions of a partnership, the joint stock or capital not having been over \$1,000, whether such account is sought by claim or counter claim ;

Partnership accounts.

10. In actions by a legatee under the will of any deceased person, such legatee seeking payment or delivery of his legacy not exceeding \$200 in amount or value out of such deceased person's estate not exceeding \$1,000 ;

Legacies.

11. In actions by a legal or equitable mortgagee whose mortgage has been created by some instrument in writing, or a judgment creditor, or a person entitled to a lien or security for a debt, seeking foreclosure or sale, or otherwise, to enforce his security, where the sum claimed as due does not exceed \$200 ;

Actions on mortgages.

12. In actions by a person entitled to redeem any legal or equitable mortgage or any charge or lien, and seeking to redeem the same, where the sum actually remaining due does not exceed \$200 ;

Actions for redemption.

13. In actions by any person seeking equitable relief in respect of any matter whatsoever, where the subject matter involved does not exceed \$200 ;

Equitable relief.

14. In any action or contestation to establish the right of a creditor to rank upon an insolvent estate where the amount of such claim does not exceed \$400. 59 V. c. 19, s. 3.

Right of creditor to rank on estate.

24. If during the progress of any action or matter under clauses 9 and 10 of the last preceding section, it is made to appear to the Judge that the subject-matter exceeds the limit in point of amount to which the jurisdiction of the Court is therein limited, it shall not affect the validity of any proceedings already had or order already made, but unless an order is made under the next section it shall be the duty of the Judge by his order to transfer the action or matter to the High Court ; and the procedure in the said action or matter after being so transferred shall be regulated by the rules of the Supreme Court of Judicature for Ontario. 59 V. c. 19, s. 4, part.

Transfer of certain actions found not to be within the jurisdiction.

25. —(1) Any party or person interested may upon notice to the other parties apply to a Judge of the High Court for

When action may be continued in County Court

notwithstanding excess of jurisdiction.

an order authorizing and directing the action or matter to be carried on, continued and completed in the County Court, if such action or matter is beyond the jurisdiction of the County Court by reason only that the amount of the "joint stock or capital," or "deceased person's estate," mentioned and limited in clauses 9 and 10 of section 23 exceeds the sum of \$1,000 by an amount not exceeding \$500.

Order transferring in discretion of Judge.

(2) If after hearing the parties or such of them as appear, the Judge is of the opinion that such excess will not prejudicially interfere with a proper trial or completion of the said action or matter in the said County Court he may order that all subsequent proceedings in such action or matter shall be had and taken to completion (including the issue of execution and all proceedings thereon or thereafter) in the County Court as fully as though such Court had had jurisdiction *ab initio*, or that only certain of such proceedings to be mentioned in the order shall be so had in the County Court, and that thereafter the other proceedings shall be had in the High Court as to said Judge appears meet and proper, and he may make such order as to the costs of the proceedings had before him as he deems just. 59 V. c. 19, s. 4, part.

Abandonment of so much of claim as is in excess of jurisdiction.

26. Where it appears at any time before or during the trial that the claim of the plaintiff is in excess of the jurisdiction of the Court, the plaintiff in his discretion may before or during the trial by writing signed by him and filed, upon such terms as the Judge deems proper as to costs and otherwise, abandon so much of his claim as is in excess of the jurisdiction of the Court. In such case the plaintiff shall forfeit such excess, and shall not be entitled to recover the same in any other action. 59 V. c. 19, s. 5.

Jurisdiction in actions for recovery of land.

27.—(1) The several County Courts shall have jurisdiction in actions for the recovery of corporeal hereditaments (where the yearly value of the premises, or the rent payable in respect thereof, does not exceed \$200) in the following cases, namely;

- (a) Where the term and interest of the tenant of such corporeal hereditament has expired, or has been determined by the landlord or the tenant, by a legal notice;
- (b) Where the rent of such corporeal hereditament is sixty days in arrear, and the landlord has the right by law to re-enter for non-payment thereof;

Power in such cases.

and in respect to such actions the said Courts shall have and exercise the same powers as belong to and may be exercised by the High Court, in and in respect to actions for the recovery of land.

(2) The term "Landlord," as used in this section shall be understood to mean the person entitled to the immediate reversion of the land; or if the property be holden in joint tenancy, coparcenary or tenancy in common, shall be understood to mean any one of the persons entitled to such reversion. R. S. O. 1887, c. 47, s. 20 (1, 3).

Landlord defined.

28. Every County Court shall have legal and equitable jurisdiction and shall, as regards all causes of action within its jurisdiction for the time being, have power to grant and shall grant, in any action or proceeding in such Court such relief, redress or remedy, or combination of remedies, either absolute or conditional, including the power to grant, vesting orders and to relieve against penalties and forfeitures, and shall in every such action or proceeding give such and the like effect to every ground of defence or counter-claim, equitable or legal (subject to the provision next hereinafter contained) by and upon the same mode of procedure, and in as full and ample a manner as might and ought to be done in the like case by the High Court. 59 V. c. 19, s. 6; 60 V. c. 15, Sched. A (72).

Relief which may be granted by County Courts.

29. Where in a proceeding before a County Court any defence or counter-claim of the defendant involves matter beyond the jurisdiction of the Court, such defence or counter-claim shall not affect the competence or the duty of the Court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the Court has jurisdiction to administer shall be given to the defendant upon such counter-claim. R. S. O. 1887, c. 47, s. 22.

Duty of Courts where defence or counter-claim involves matters beyond jurisdiction.

REMOVAL OF ACTIONS INTO HIGH COURT.

30.—(1) Where it appears in an action otherwise of the proper competence of the County Court that such Court has not cognizance thereof from the title to land beyond the value of \$200 being brought in question, or from the validity of a devise, bequest or limitation under a will or settlement being disputed, and the devise, bequest or limitation exceeding in value \$200, or from the assets of the estate or fund out of which the amount in question is payable exceeding \$1,000, a Judge of the High Court or a Judge of the County Court before whom the cause is pending, may (subject to section 25 of this Act) direct the removal of the cause into the High Court; and the cause when removed into the High Court shall be proceeded with in the said Court in the manner provided by section 31 of this Act. 59 V. c. 19, s. 9.

When title to land beyond the value of \$200 is called in question.

(2) The Judge making the order may in his discretion make and impose terms on the party applying for the order as to payment of costs, giving security for debt or costs, or such other terms as he thinks fit.

Imposition of terms on granting order for removal.

Judge of High Court may review order for removal of Co. Court Judge.

(3) Where the order is made by a Judge of a County Court, a Judge of the High Court sitting in Chambers at Toronto, may rescind the order, or vary the terms thereof or imposed thereby. R. S. O. 1887, c. 47, s. 23 (2, 3).

Certain cases may be transferred to the High Court.

31.—(1) If it appears to a County Court or a Judge thereof that an equitable question raised in an action or other proceeding in such County Court, cannot be dealt with by the County Court so as to do complete justice between the parties, or may for any other reason be more conveniently dealt with in the High Court, the Court or Judge may order the action or proceeding to be transferred to the High Court; and the order of transference may be made by the Court or Judge *sua sponte*, or upon the application of either party on notice to the other parties interested, and may be made at any stage of the action or other proceeding.

Proceedings on transfer to High Court.

(2) Where an order is made under the preceding subsection, the proper officer of the County Court shall annex together all pleadings and papers filed with him, and transmit the same, together with the order of transference or a copy thereof, to such officer of the High Court as the order directs.

On a transfer made to High Court practice, powers, etc.

(3) Where a transfer has been made under this section the action or other proceeding shall thereafter proceed in the High Court; and the Judges of the High Court and the officers thereof shall have the same powers and perform the same duties in relation thereto, and the Rules and practice of the Supreme Court shall in all respects (or as nearly as may be) apply as if the suit had been originally instituted as an action, or proceeding in the High Court; but no further or other pleadings shall be necessary than the original pleadings in the Court from which the action or proceeding was transferred, unless specially ordered by the Court or a Judge. R. S. O. 1887, c. 47, s. 38.

Transfer of actions improperly brought in County Court.

32. Where it appears in an action brought in a County Court that such Court has not cognizance thereof from any cause other than those mentioned in section 30, a Judge of the High Court, or the Judge of the County Court before whom the action is pending, may order the action to be transferred to the High Court, and the proceedings thenceforward shall be as provided by sections 31 and 34 of this Act for like cases. 54 V. c. 14, s. 1.

In what cases and on what conditions causes shall be removable.

Rev. Stat. c. 51.

33. Except in cases within the meaning of sections 24, 30, 31 and 32, or in cases where the defence or counterclaim involves matter beyond the jurisdiction of the County Court as provided in section 186 of *The Judicature Act*, no cause or action instituted in a County Court shall be removed or removable from such County Court, by order of *certiorari*, or otherwise, into the High Court unless the debt or damages claimed amount to upwards of \$100, and then

only on affidavit and by leave of a Judge of the High Court, in cases which appear to the Judge fit to be tried in the High Court, and upon such terms as to payment of costs, giving security for debt or costs, or such other terms as he thinks fit. R. S. O. 1887, c. 47, s. 24.

34. In a case removed from a County Court to the High Court it shall not be necessary to deliver a new statement of claim, but the case shall proceed on the record as it stands when removed into the High Court, and all subsequent proceedings may be had and taken in the cause in the same way as if it had been originally commenced and prosecuted in the High Court. R. S. O. 1887, c. 47, s. 25.

On removal case to proceed on the record as it stands.

COSTS IN CASES TRANSFERRED.

35. Subject to rules, where an action is transferred under section 31, the fees and disbursements shall be paid and the solicitors' costs taxed according to the lower scale tariff of the High Court. R. S. O. 1887, c. 47, s. 39.

Costs on transfer.

PLACE OF TRIAL IN CERTAIN CASES.

36.—(1) Actions under clause 8 of section 23 of this Act shall be brought and tried in the county where the land is, and actions under clause 9 of the said section shall be brought and tried in the county where the partnership had or has its principal place of business, and actions under clause 10 of the said section shall be brought and tried in the county where letters probate or of administration have issued, or where the deceased resided at the time of his death, unless by consent of the parties, or unless the place of trial is changed. 59 V. c. 19, s. 10.

Venue for certain actions.

(2) Actions under section 27 of this Act shall be brought in the County Court of the county in which the premises sought to be recovered lie. R. S. O. 1887, c. 47, s. 20 (2)

PLEADING AND PRACTICE.

37. An action by or against a Judge or Junior Judge of a County Court which is within the competence of a County Court, may be brought in the County Court of any County adjoining that in which such Judge or Junior Judge resides. R. S. O. 1887, c. 47, s. 26.

Where action against Judge of County Courts may be brought.

38. When it is intended by a pleading to bring into question the title to land, or to any annual or other rent, duty, or other custom or thing, relating to or issuing out of lands or tenements of greater value than \$200, or to dispute

Pleading want of jurisdiction.

the validity of any devise, bequest or limitation exceeding \$200 under any will or settlement or when it is intended by any pleading to exclude the jurisdiction of the Court upon the foregoing or upon any other ground it shall be so expressly stated in the pleading, and the matter relied on for that purpose shall also be set out in the pleading. 59 V. c. 19, s. 11.

Taking issue on pleading, want of jurisdiction.

39. Issue may be taken on any such pleading or reply may be made or a summary application may be made to the Judge to determine whether the jurisdiction of the Court is by such pleading *bona fide* brought in question. If the Judge is of opinion that the jurisdiction of the Court is not so brought in question he may direct the pleading to be amended or to be struck out. Where the Judge is of opinion that the jurisdiction of the Court is properly and *bona fide* brought in question by any pleading he may order that the cause be transferred to the High Court. 59 V. c. 19, s. 12.

Procedure in County Courts.
Rev. Stat. c. 51.

40. Subject to the provisions of *The Judicature Act* and to Rules of Court, the pleadings, practice and procedure for the time being of the High Court shall apply and extend to the County Courts, wherever the pleadings, practice and procedure of the County Courts corresponded with those of the Superior Courts of Law, prior to the passing of *The Ontario Judicature Act, 1881*, and the rules, orders and forms applicable to similar cases and under similar conditions in the High Court shall apply to all actions, suits or proceedings, had, instituted or pending under the additional jurisdiction given by *The County Courts Act, 1896*, to County Courts unless and until additional or other rules applicable to such cases are made. R. S. O. 1887, c. 47, s. 28; 59 V. c. 19, s. 13.

Rules, orders and forms.
44 V. c. 5.

59 V. c. 19.

Powers as to new trials, etc.

41. The several County Courts may set aside verdicts or non-suits, and grant new trials, and such Courts and the Judges thereof may set aside judgments by default, and proceedings for irregularity, grant time for any pleading, and order stay of proceedings till security is given for costs, and may issue summonses and make orders in all matters of practice in like manner and on the like principles and grounds, and to the same extent as the High Court, or the Judges thereof in the said Court, and may cause rules on sheriffs, or any other rules, orders or proceedings thereupon to be served in any county. R. S. O. 1887, c. 47, s. 29.

COSTS WHERE NO JURISDICTION.

Costs where action fails for want of jurisdiction.

42. In all actions or other proceedings brought in a County Court in which the plaintiff fails to recover judgment by reason of such Court having no jurisdiction over the subject matter thereof, the County Court shall have jurisdiction over the costs of the action, or other proceeding, and may order by and to whom the same shall be paid, and the recovery

of the costs so ordered to be paid may be enforced by the same remedies as the costs in actions or proceedings within the proper competence of the said Court are recoverable. R. S. O. 1887, c. 47, s. 30.

EXECUTION.

43. The County Courts may issue writs of execution against goods and lands, and writs of *capias ad satisfaciendum* against the person, in like cases, upon the same terms, and in the same order, as similar writs may be issued in the High Court. R. S. O. 1887, c. 47, s. 31. Writs of execution.

44. The County Courts may issue writs of execution against the person, lands or goods, writs of *subpœna*, rules on the sheriff, and all other rules, orders and proceedings into any other county, to be served or executed therein; and Judge's summonses and orders may be issued in like manner; and all such writs, rules, summonses, orders and proceedings shall be of equal force and effect, and as binding as if the same had been issued from the Court or by the Judge of the County to or into which they are so issued, and all subsequent proceedings thereupon shall be carried on in the Court in which the action has been brought or the judgment entered. R. S. O. 1887, c. 47, s. 32. Writs of execution, etc. may run into other counties.

POWER TO ENFORCE RULES.

45. The several County Courts shall have and exercise the same powers to enforce their rules, regulations and directions as the High Court possesses, and may punish by fine or imprisonment, or by both, for any wilful contempt or resistance to their regular process, rules or orders; but the fine shall in no case exceed \$100, nor shall the imprisonment exceed six months. R. S. O. 1887, c. 47, s. 33. Power to enforce rules, etc.

ACCOUNTS AND INQUIRIES.

46. Where it is proper to direct a reference, the Court or Judge may make such reference to the Master in Ordinary of the Supreme Court or to any of the Local Masters or to the Clerk of the Court, and where the Judge of the Court is Local Master the reference may be made by him to himself as such Master, but no reference to take accounts or make enquiries shall be directed at the sittings of the Court where such accounts or inquiries can be conveniently taken or made at such sittings; and no reference shall be directed at any time, unless where a reference is necessary, if such reference will increase the cost of the proceedings. 60 V. c. 15, s. 2. References.

47.—(1) Where an order is made under the preceding section, the Master or Clerk to whom the reference is directed shall proceed therein, and all rules as to the powers of the Power on such order.

Master, and as to the proceedings in the Master's office, shall apply thereto. R. S. O. 1887, c. 47, s. 35; 59 V. c. 19, s. 7.

Costs of reference.

(2) Upon every reference under the preceding section the fees to be paid and the costs to be allowed, whether as between party and party, or solicitor and client, shall be in accordance with the lower scale tariff of the High Court. 59 V. c. 19, s. 8.

Report to be filed.

48. Where the Master or Clerk has made his report pursuant to the order, the same shall be filed with the officer of the Court with whom the pleadings are filed; and the report shall, without an order confirming the same, become absolute at the expiration of fourteen days after the filing thereof, unless previously appealed from, but the Court or a Judge may, under special circumstances, allow an appeal after the fourteen days. R. S. O. 1887, c. 47, s. 36; 59 V. c. 19, s. 7.

When it shall become absolute.

Appeal from report.

49. The appeal from a report referred to in the preceding section shall be to a Judge in Chambers or to the Court; but when the appeal is taken to the Court, the notice of appeal shall be returnable not later than the fourth day of the County Court Sittings next after the filing of the report. R. S. O. 1887, c. 47, s. 37.

APPEALS FROM COUNTY COURTS.

Meaning of "party to a cause or matter" and "appellant."

50. The terms "party to a cause or matter," and "appellant," hereinafter used, shall include persons suing or being sued in the name of others, though not mentioned in the record, and persons on whose behalf or for whose benefit any action is prosecuted or defended, as well as parties named in the record. R. S. O. 1887, c. 47, s. 40.

Appeals to Divisional Courts.

51.—(1) Any party to a cause or matter in a County Court may appeal to a Divisional Court of the High Court of Justice from any judgment directed by a Judge of the County Court to be entered at or after the trial in any case tried without a jury, and also in any case tried with a jury, to which subsection 4 does not apply.

Motion to County Court for new trial or other judgment.

(2) Instead of appealing to a Divisional Court of the High Court of Justice any party may move before the County Court within the first two days of its next quarterly sittings to set aside the judgment and enter any other judgment upon any ground.

Moving for new trial on discovery of new evidence.

(3) A motion for a new trial on the ground of discovery of new evidence or the like shall be made before the County Court.

Where has been a trial with a jury.

(4) Where there has been a trial with a jury any motion for a new trial; whether made for that relief alone or combined with, or as an alternative for any other relief, shall be made to the County Court.

(5) If a party moves before a County Court under subsection 2 in a case in which he might have appealed to the High Court he shall not be entitled to appeal from the judgment of the County Court to the High Court, but the opposite party shall be entitled to appeal therefrom to the High Court. 58 V. c. 13, s. 44 (1); 60 V. c. 15, Sched. A (69).

Party moving
County Court
not to appeal
to High Court.

52.—(1) An appeal shall also lie to a Divisional Court of the High Court of Justice, at the instance of any party to a cause or matter from every decision made by a Judge of a County Court under any of the powers conferred upon him by any Rules of Court or any statute, unless provision is therein made to the contrary; and from every decision or order made by a Judge of a County Court sitting in Chambers under the provisions of the law relating to interpleader proceedings, the examination of debtors, attachment of debts and proceedings against garnishees; and from every decision or order made in any cause or matter disposing of any right or claim, provided always that the decision or order is in its nature final and not merely interlocutory. R. S. O. 1887, c. 47, s. 42; 58 V. c. 13, s. 44 (2); 59 V. c. 18, Sched. (48); c. 19, s. 14.

Appeals from
decision of
Judge.

(2) This section shall not apply where jurisdiction is given to the Judge of the County Court as *persona designata*. 56 V. c. 13, s. 6.

[As to appeals where Judge is *persona designata*. See Cap. 76, Sec. 6.]

53. An appeal may be had from any appealable decision of a County Court Judge, notwithstanding judgment has been signed thereon. R. S. O. 1887, c. 47, s. 43, part; 58 V. c. 13, s. 44 (3).

Appeal after
judgment
signed.

54. On an appeal the Divisional Court may set aside any judgment which may have been directed to be entered or may have been signed, and direct any other judgment to be entered or direct a new trial to be had and make any other order as to such Court may appear requisite and just. 58 V. c. 13, s. 44 (4).

Order of
Divisional
Court on
appeal.

55. The Judge shall at the request of the appellant, certify under his hand to the proper officer of the High Court the pleadings in the cause, and all motions, rules or orders made, granted or refused therein, together with the Judge's charge and the judgment or decision on the same, and, where a trial has been had, the evidence and all objections and exceptions thereto, and all other papers in the cause affecting the questions raised by the appeal. R. S. O. 1887, c. 47, s. 51, part; 58 V. c. 13, s. 44 (5).

Pleadings,
etc., to be
certified.

56. In appeals under section 52, the Judge shall only be required under the next preceding section to certify the motions;

Certifying pro-
ceedings
under s. 52.

rules, orders, affidavits, evidence and other materials, necessary for the full understanding of the matter in appeal, together with his judgment or decision on the same. R. S. O. 1887, c. 47, s. 45.

Setting down
appeals.

57. The appeal shall be set down for argument at the first sittings of a Divisional Court of the High Court of Justice which commences after the expiration of one month from the judgment, order or decision complained of and the Divisional Court shall give such order or direction to the Court below, touching the judgment to be given in the matter, as the law requires; and shall also award costs to either party in its discretion, which costs shall be certified to and form part of the judgment of the Court below; and upon receipt of the order, direction and certificate, the Court below shall proceed in accordance therewith. R. S. O. 1887, c. 47, s. 52, part; 58 V. c. 13, s. 44 (6).

Costs.

RULES OF LAW.

Rules of Law
to apply to
County
Courts.

Rev. Stat.
c. 51.

58. The several rules of law enacted and declared by *The Judicature Act* shall be in force and receive effect in all County Courts in Ontario, so far as the matters to which such rules relate shall be respectively cognizable by such Courts. R. S. O. 1887, c. 47, s. 53.

RULES OF COURT.

Judges of
Supreme
Court and of
High Court
may make
rules.

Rev. Stat.
c. 51.

59. The Judges of the Supreme Court and of the High Court respectively, shall have the same authority to make Rules of Court with respect to the County Courts as by section 122 and 124 of *The Judicature Act* they have with respect to the High Court; and the Judges authorized, as mentioned in section 125 of that Act, shall, with respect to the County Courts, have the like authority. R. S. O. 1887, c. 47, s. 54.

TARIFF OF COSTS.

Tariff of costs
for counsel
and solicitors.

Rev. Stat.
c. 60.

60.—(1) The Board of County Judges appointed under section 305 or 306 of *The Division Courts Act*, or the majority of them, may frame a tariff of costs to be allowed to solicitors and counsel in respect of actions in the County Courts, and may, from time to time, alter and amend the same.

Rev. Stat.
c. 51.

(2) The Board, or any three of them, shall certify to the Judges authorized to make Rules under section 122, 124 or 125 of *The Judicature Act*, any tariff so framed, or any alteration thereof; and the Judges may approve, disallow or amend such tariff or alterations; and such tariff or alterations approved by the Judges shall have the same force and effect as if made under the said Act by the Judges so approving of the same. R. S. O. 1887, c. 47, s. 55.

CHAPTER 56.

An Act respecting the Courts of General Sessions of the Peace.

SHORT TITLE, s. 1.
COURTS, ss. 2, 3.
SITTINGS, ss. 4-9.

RESCINDING ORDERS, s. 10.
CLERK OF THE PEACE, s. 11.
TARIFF OF FEES, s. 12.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The General Sessions Act.*" Short title. R. S. O. 1887, c. 48, s. 1.

2. The authority under which Commissions of the Peace have been issued, and the authority under which the Courts of General Sessions of the Peace have been held and are now held, and all matters and things done by or by virtue of the same, shall be, so far as relates to the authority under which such commissions were issued and such Courts have been held, good and valid. R. S. O. 1887, c. 48, s. 2.

3. The said Courts shall be in the place and stead of the County Courts of England, as far as respects any purpose of outlawry, or any proceedings therein. R. S. O. 1887, c. 48, s. 3. *[For jurisdiction see Chap. 58 of these Revised Statutes.]*

Former Commissions and Courts confirmed.

For purposes of outlawry, General Sessions substituted for County Courts in England.

SITTINGS.

4.—(1) Except in the County of York, and subject to the provisions of section 21 of *The Local Courts Act*, the sittings of the Courts shall be held semi-annually, commencing on the second Tuesday in the months of June and December respectively in each year.

General Sessions when to be held. Rev. Stat. c. 54, s. 21.

(2) In the County of York, the Courts shall be held four times in the year, commencing on the first Tuesday in the months of December and March, and on the second Tuesday of the months of May and September respectively in each year.

County of York.

R. S. O. 1887, c. 48, s. 4.

Where to be held.

5. The Court of General Sessions of the Peace shall be held in the county town of the county, but in time of war or other exigency the Lieutenant-Governor may, by proclamation, authorize the holding of the Court at some other place in the county. R. S. O. 1887, c. 48, s. 5.

Chairman.

6. The Judge of the County Court of every county, or, in case of his death or absence, the Junior or acting Judge, or Deputy Judge shall preside as chairman at the General Sessions of the Peace for the county. R. S. O. 1887, c. 48, s. 6.

Sitting of associate Justice of Peace dispensed with when a Judge present.

7. Where a Judge or Junior or Deputy Judge is present, it shall not be necessary, in order to constitute a Court or sittings of the General Sessions of the Peace, that an associate or other Justice of the Peace should be present at the Court or sittings. R. S. O. 1887, c. 48, s. 7.

Adjourning General Sessions owing to illness of Judge, etc.

8.—(1) Where, from illness or from other casualty, the Judge who is to hold the sittings of the General Sessions of the Peace, is unable to hold the same at the time appointed therefor, the Sheriff of the county, or, in his absence, his deputy, may adjourn by his proclamation the said Court to any hour on the following day, to be by him named, and so from day to day, until the Judge is able to hold the Court, or until he receives other directions from the Judge or Provincial Secretary.

Provincial Secretary to be notified.

(2) The Sheriff shall forthwith notify any adjournment to the Provincial Secretary, for the information of the Lieutenant-Governor. R. S. O. 1887, c. 48, s. 8.

Reading the Commissions dispensed with.

9. It shall not be necessary, in opening any Court of General Sessions, to read the Commission of the Peace, or other commission issued for the county for which the Court is held; but the Court shall have the same powers and authorities, and proceed in the same manner, as if the commission had been read. R. S. O. 1887, c. 48, s. 9.

RESCINDING ORDERS OF COURT.

No order of Justices to be rescinded unless at least same number present.

10. Except where otherwise provided by law, any order which has been passed or recorded by any number of Justices of the Peace in any county, shall not be rescinded unless at least the same number is present. R. S. O. 1887, c. 48, s. 10.

CLERK OF THE PEACE.

Clerk of the Peace.

11.—(1) No person shall be appointed Clerk of the Peace for any county who is not a barrister-at-law, of at least three years' standing at the bar of Ontario; and, except in the County of York, every Clerk of the Peace shall be *ex officio* County Crown Attorney for the county of which he is Clerk of the Peace.

Ex officio
County Crown
Attorney.

(2) Except in the County of York, whenever a vacancy occurs in the office of the Clerk of the Peace for a county, in which the Clerk of the Peace was not, previous to such vacancy occurring, also County Crown Attorney for the county, the County Crown Attorney shall be *ex officio* Clerk of the Peace for the county.

On any vacancy, County Crown Attorney and retaining office of Clerk of the Peace.

(3) Where a person holding the office of County Crown Attorney and Clerk of the Peace desires, from the condition of his health or from his age, to resign the office of County Crown Attorney, retaining the office of Clerk of the Peace, he may do so if the Lieutenant-Governor thinks fit to accept his resignation; and in such case the County Crown Attorney appointed in his place shall, on a vacancy occurring in the office of the Clerk of the Peace be *ex officio* Clerk of the Peace for the county, as in other cases.

Resigning office of Crown Attorney and retaining office of Clerk of the Peace.

(4) In the County of York, the Clerk of the Peace shall not be *ex officio* County Crown Attorney nor the County Crown Attorney *ex officio* Clerk of the Peace, but the offices may respectively be held and enjoyed by different persons. R. S. O. 1887, c. 48, s. 11.

In County of York offices of Clerk of the Peace and Crown Attorney may be held by different persons.

TARIFF OF FEES.

12.—(1) The Board of County Judges appointed under section 305 or 306 of *The Division Courts Act*, or the majority of them, may frame a tariff of fees and costs to be allowed in respect of proceedings in the Courts of General Sessions of the Peace to witnesses and to the Clerk of the Peace, and to solicitors and counsel practising therein, including the County Crown Attorney, and may from time to time alter and amend the same

Board of County Judges to frame tariff of fees
Rev. Stat. c. 60.

(2) The Board or any three of them shall certify to the Judges authorized to make rules under section 122 or section 125 of *The Judicature Act*, any tariff so framed, or any alteration thereof, and any Judges authorized to make rules under the said Act may approve, disallow or amend any such tariff or alterations.

Rev. Stat. c. 51.

(3) Any tariff or alteration so approved of, or amended and approved, shall have the same force and effect as if it had been enacted by the Legislature of this Province. R. S. O. 1887, c. 48, s. 12.

CHAPTER 57.

An Act respecting the County Judges' Criminal Courts.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Judge of the County Court constituted a Court for trial of certain offenders without jury.

1. The Judge of every County Court, or the Junior or Deputy Judge thereof, authorized to act as Chairman of the General Sessions of the Peace for any county, is constituted a Court of Record for the trial, out of sessions and without a jury, of any persons committed to gaol on a charge of being guilty of any offence for which such person may be tried at a Court of General Sessions of the Peace, and for which the person so committed consents to be tried out of sessions, and without a jury; and the Court so constituted shall have the powers and duties which sections 763 to 781 of *The Criminal Code, 1892*, purport to give, so far as the Legislature of this Province can confer the same. R. S. O. 1887, c. 49, s. 1; 53 V. c. 18, s. 3; 60 V. c. 15, Sched. A (13).

Powers and duties, 55-56 V. c. 29, Dom.

Style of Court.

2. The Court constituted by the preceding section shall be called "The County Judge's Criminal Court" of the County in which the same is held. R. S. O. 1887, c. 49, s. 2.

CHAPTER 58.

An Act relating to the Jurisdiction of Courts of General Sessions of the Peace and other Inferior Criminal Courts.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. No Court of General Sessions of the Peace, no County or District Judge's Criminal Court, no Judge of any County Court, no Junior or Deputy Judge thereof, authorized to act as Chairman of the General Sessions of the Peace for the County, no Judge of any Provisional Judicial District, no Judge of any District Court authorized respectively to act as Chairman of the General Sessions of the Peace, nor any Court but the High Court of Justice or Courts of Assize, Nisi Prius, Oyer and Terminer and General Gaol Delivery, shall have power to try any treason, any crime punishable with death, or any homicide, or any libel. 53 V. c. 18, s. 1.

2. The Courts of General Sessions of the Peace and the County and District Judges' Criminal Courts shall have jurisdiction to try any person for any offence which was formerly included under any of the provisions of sections 28 to 31, both inclusive, of the Revised Statutes of Canada, chapter 165, entitled *An Act respecting Forgery*. 53 V. c. 18, s. 2; 50 V. c. 15, Sched. A (38).

CHAPTER 59.

An Act respecting the Surrogate Courts.

SHORT TITLE, s. 1.	APPEALS TO THE COURT OF APPEAL, s. 36.
INTERPRETATION, s. 2.	PROCEDURE TO OBTAIN PROBATE, ss. 37-54.
CONSTITUTION OF THE COURTS, ss. 3-5.	COPIES OF WILLS, ETC., s. 55.
JUDGES, ss. 6, 7.	ADMINISTRATION OF ESTATES, ss. 56-73.
SURROGATE CLERK AND REGISTRARS, ss. 8-16.	ESTATES OF SMALL VALUE, ss. 74-77.
JURISDICTION AND POWERS OF COURTS, ss. 17-21.	ANCILLARY PROBATES, ETC., ss. 78, 79.
TRIALS BY JURY, ss. 22, 23.	FEES AND COSTS, ss. 80-87.
TERMS, s. 24.	GENERAL RULES AND ORDERS, s. 88.
WITNESSES AND EVIDENCE, ss. 25-31.	CONSTRUCTION OF ACT, s. 89.
ENFORCING ORDERS AND JUDGMENTS, s. 32.	
REFERENCE OR REMOVAL OF CASES TO HIGH COURT, ss. 33-35.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Surrogate Courts Act.*" R. S. O. 1887, c. 50, s. 1.

INTERPRETATION.

Interpretation. 2. Where the following words and expressions occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears;

"Will." 1. "Will" shall include "testament," and all other testamentary instruments of which probate may now be granted;

"Administration." 2. "Administration" shall include all letters of administration of the effects of deceased persons whether with or without the will annexed, and whether granted for general, special or limited purposes;

"Matters and causes testamentary." 3. "Matters and causes testamentary" shall include all matters and causes relating to the grant and revocation of probate of wills, or letters of administration;

"Common form business." 4. "Common form business" shall mean the business of obtaining probate or administration where there is no contention as to the right thereto, including the passing of probates and administration through a Surrogate Court when the con-

test is terminated, and all business of a non-contentious nature to be taken in a Surrogate Court in matters of testacy and intestacy not being proceedings in any suit, and also the business of lodging caveats against the grant of probate or administration. R. S. O. 1887, c. 50, s. 2.

SURROGATE COURTS.

3. In and for every County in Ontario there shall be a Court of Record to be called "The Surrogate Court" of each respective County, over which Court one Judge shall preside; and there shall also be a Registrar and such officers as may be necessary for the exercise of the jurisdiction to the said Courts belonging. R. S. O. 1887, c. 50, s. 3.

A Surrogate Court to be in each County.

4. Each of the Surrogate Courts shall be provided with a suitable seal to be approved of by the Lieutenant-Governor; and the Judges of the said Courts may respectively cause the same from time to time, with the approval of the Lieutenant-Governor, to be broken, altered or renewed; and all probates, letters of administration, grants, orders, letters of guardianship and other instruments and exemplifications, and copies thereof respectively, purporting to be sealed with the seal of any Surrogate Court, shall, in all Courts and in all parts of Ontario, be received in evidence without further proof thereof. R. S. O. 1887, c. 50, s. 4.

Courts to have seals; and exemplifications and copies under seal to be received in evidence.

5. The Surrogate Court of every county shall hold its sittings in the county town of the county. R. S. O. 1887, c. 50, s. 5.

Sittings where held.

JUDGES.

6. The Judge, or in case there are two Judges, the Senior Judge of a County Court who was appointed as such Judge prior to the 7th day of April, 1896, shall be *ex officio* Judge of the Surrogate Court for the county; and in case of the illness or absence or at the request of a Judge of a Surrogate Court, or in case the office of Senior Judge is vacant, the Junior or acting Judge or the Deputy Judge (if any) of the County Court, shall have all the powers and privileges and perform all the duties of the Judge of the Surrogate Court. R. S. O. 1887, c. 50, s. 6; 59 V. c. 20, s. 6.

Certain Judges of County Courts to be *ex officio* Judges of Surrogate Courts.

7. Every Judge of a Surrogate Court shall, before executing the duties of his office, take the following oath before some one authorized by law to administer the same:

Oath of Judge.

"I, _____, do solemnly and sincerely promise and swear that I will duly and faithfully, and according to the best of my skill and power, execute the office of Judge of the Surrogate Court of the County (or United Counties, as the case may be) of _____ : So help me God."

R. S. O. 1887, c. 50, s. 7.

SURROGATE CLERK AND REGISTRARS.

Surrogate Clerk to be appointed—his duties.

8. There shall be a clerk, to be called the Surrogate Clerk, who shall perform the duties required of the Surrogate Clerk by this Act, as well as the duties that, by the Rules and Orders heretofore in force relating to Surrogate Courts, or to be hereafter made under this Act, are required of such Surrogate Clerk and also such other duties as may be required of him by the High Court; and the Surrogate Clerk shall be deemed an officer of the High Court, and the Lieutenant-Governor shall from time to time appoint and at his pleasure remove such Clerk. R. S. O. 1887, c. 50, s. 8.

Who to be Registrar.

9.—(1) Subject to the provisions of the next section, on the death, resignation or removal of the Registrar of a Surrogate Court, the Clerk of the County Court shall be *ex officio* Registrar of the Surrogate Court; but this provision shall not apply to the Registrar of the Surrogate Court of the County of York, or to the Clerk of the County Court of the said county.

County of York.

(2) The Lieutenant-Governor may from time to time appoint a Registrar of the Surrogate Court of the County of York, to hold office during pleasure, and upon the death, resignation or removal of such Registrar, shall supply the vacancy. R. S. O. 1887, c. 50, s. 9.

When Clerk of County Court not to be *ex officio* Registrar of the Surrogate Court.

10.—(1) In case the Registrar of a Surrogate Court dies, resigns or is removed from office, if the salary, fees and allowances of the Clerk of the County Court and Deputy Clerk of the Crown, or the Clerk of the County Court and Local Registrar of the High Court, for the year terminating on the 31st day of December next preceding the death, removal or resignation of such Registrar of the Surrogate Court amount to the sum of \$1,600, the Clerk of the County Court shall not be *ex officio* Registrar of the Surrogate Court.

(2) The recital or statement in a commission of the Lieutenant-Governor appointing a person to fill the office of Registrar of the Surrogate Court of any county shall be conclusive evidence that such registrarship comes within the provisions of this section. R. S. O. 1887, c. 50, s. 10.

Oath of Registrar.

11. Every Registrar of a Surrogate Court shall before he shall be entitled or qualified to act as Registrar under this Act, take the following oath before the Judge of the Court, or some other person authorized by law to administer the same:

"I, _____, do solemnly and sincerely promise and swear that I will diligently and faithfully execute the office of Registrar of the Surrogate Court of the County (or United Counties, as the case may be,) of _____, and that I will not knowingly permit or suffer any alteration, obliteration or destruction to be made or done by myself or others, on any wills or testamentary papers, or other documents or papers committed to my charge: So help me God."

R. S. O. 1887, c. 50, s. 11.

12.—(1) Every Registrar of a Surrogate Court shall, before entering on the duties of his office, deliver to the Treasurer of the Province a bond or other security or securities in such sum and with such sufficient surety or sureties as may be approved of by the Lieutenant-Governor in Council for the due and punctual performance of the duties imposed upon such Registrar by *The Succession Duty Act*, and that he will not receive any duty payable under the said Act, and the provisions of *The Act respecting Public Officers* relating to the giving of security by such officers, shall, where not inconsistent with this Act, apply to such bonds or other securities.

Security to be given by Registrars.

Rev. Stats. c. 21. c. 16.

(2) Any Registrar heretofore appointed who has not heretofore delivered such bond or other security or securities shall deliver the same to the said Treasurer forthwith. 55 V. c. 6, s. 21.

13.—(1) The Registrar of every Surrogate Court shall hold his office in the Court House of the county, and a room therein shall be provided for that purpose, and in the event of there being no room in the Court House, every such Registrar shall, until such room is provided, hold his office at such place as the Judge of the Court directs; and the office of every Registrar shall be a depository for all wills of living persons given to the Registrar for safe keeping, and all persons may deposit their wills in the said depository upon payment of such fees and under such regulations as may from time to time be directed by Rules or Orders in that behalf heretofore in force or hereafter made under this Act.

Registrar's office.

Office to be a depository for the wills of living persons.

(2) Provided, however, that the Registrar of the Surrogate Court of the County of Essex may keep an office in some convenient place in the City of Windsor, in the County of Essex, subject to such arrangements as the County Council of the County of Essex may assent to, and subject also to the approval thereof by the Lieutenant-Governor in Council. R. S. O. 1887, c. 50, s. 12.

Registrar of Essex.

14. The Registrar of every Surrogate Court shall file and preserve all original wills and testamentary instruments of which probate or letters of administration with the will annexed are granted in such Surrogate Court, and all other papers used in any matter in such Court, subject to such regulations as may from time to time be made by any Rules or Orders under this Act in relation to the due preservation thereof, and the convenient inspection of the same. R. S. O. 1887, c. 50, s. 13.

Registrars to preserve testamentary instruments, papers, etc.

15. On the third day of every month, or oftener if required by any Rule or Order respecting Surrogate Courts in force at the time of the passing of this Act, or hereafter made under this Act, every Registrar of a Surrogate Court shall transmit by mail to the Surrogate Clerk, a list, in such form and containing such particulars as may from time to time be

Registrars to transmit to Surrogate Clerk, list of probates, etc.

required by such Rules and Orders, of the grants of probate and administration made by such Surrogate Court up to the last day of the preceding month, and not included in any previous return, and also a copy certified by such Registrar to be a correct copy of every will to which any such probate or administration relates, and such Registrar shall in like manner make a return of every revocation of a probate or administration. R. S. O. 1887, c. 50, s. 14; 60 V. c. 15, Sched. A (14).

Surrogate Clerk and Registrars not to take fees for drawing or advising on certain documents.

16. Neither the Surrogate Clerk or any Registrar of the Surrogate Court shall for fee or reward draw or advise upon any will or other testamentary paper, or upon any paper or document connected with the duties of his office for which a fee is not expressly allowed to him by the tariff in that behalf. R. S. O. 1887, c. 50, s. 15.

[For returns by Registrars of Surrogate Courts, see Cap. 16, sec. 29.]

JURISDICTION AND POWERS OF THE SURROGATE COURTS.

Testamentary jurisdiction to be exercised by the Surrogate Courts.

17. All jurisdiction and authority, voluntary and contentious, in relation to matters and causes testamentary, and in relation to the granting or revoking probate of wills and letters of administration of the effects of deceased persons having estate or effects in Ontario, and all matters arising out of or connected with the grant or revocation of probate or administration, shall continue to be exercised in the name of Her Majesty, in the several Surrogate Courts; but this provision shall not be construed as depriving the High Court of jurisdiction in such matters. R. S. O. 1887, c. 50, s. 16.

Powers and jurisdiction of Surrogate Courts.

18. The Surrogate Courts shall have full power, jurisdiction and authority:

1. To issue process and hold cognizance of all matters relative to the granting of probates, and committing letters of administration, and to grant probate of wills and commit letters of administration of the property of persons dying intestate, having property in Ontario, and to revoke such probate of wills and letters of administration; R. S. O. 1887, c. 50, s. 17 (1); 53 V. c. 17, s. 1.

2. To hear and determine all questions, causes and suits in relation to the matters aforesaid, and to all matters and causes testamentary; and

3. Subject to the provisions herein contained, the Courts shall also have the same powers and the grants and orders of the said Courts shall have the same effect throughout all Ontario, and in relation to the personal estate of deceased persons, as the former Court of Probate for Upper Canada, and its grants and orders respectively had in relation to those matters and to causes testamentary within its jurisdic-

tion, and to those effects of deceased persons dying possessed of goods and chattels over \$20 in value in two or more counties in Upper Canada ; and all duties which by statute or otherwise were imposed on or exercised by the said Court of Probate or the Judge thereof in respect of probates, administrations and matters and causes testamentary, and the appointment of guardians and otherwise, shall be performed by the said several Surrogate Courts and the Judges thereof, within their respective jurisdictions ; but no actions for legacies or for the distribution of residues shall be entertained by any of the said Surrogate Courts. R. S. O. 1887, c. 50, s. 17 (2-3).

19.—(1) The grant of probate or letters of administration shall belong to the Surrogate Court for the county in which the testator or intestate had at the time of his death his fixed place of abode. R. S. O. 1887, c. 50, s. 18 (1).

To what particular Court the grant of probate or administration shall belong.

(2) If the testator or intestate had no fixed place of abode in, or resided out of, Ontario at the time of his death, the grant may be made by the Surrogate Court for any county in which the testator or intestate had property at the time of his death. R. S. O. 1887, c. 50, s. 18 (2) ; 53 V. c. 17, s. 2.

(3) In other cases the grant of probate or letters of administration shall belong to the Surrogate Court of any county. R. S. O. 1887, c. 50, s. 18 (3).

20.—(1) Where the person or one of the persons entitled to apply for probate of will or for letters of administration is Judge of the Surrogate Court having jurisdiction in the matter, and he does not renounce, application by him for such probate or letters, and any subsequent application in the matter of the estate by him or any other person may be made to the Judge of the Surrogate Court for an adjoining county who shall have the same authority in and about any such application, and generally in all matters connected with the estate, as if he were the Judge of the Surrogate Court having jurisdiction, and shall be entitled to the same fees, (to be paid in stamps in case he has commuted), as he would have been entitled to if the application had been made or proceedings had been taken in the Surrogate Court of which he is Judge.

Where Surrogate Judge is entitled to probate, application to be made to Judge in adjoining county.

(2) All proceedings shall be carried on in the Surrogate Court having jurisdiction. 53 V. c. 17, s. 21.

21. Probate or letters of administration by whatever Court granted shall, unless revoked, have effect over the property of the deceased in all parts of Ontario, subject to limitation under section 61 of this Act or otherwise. R. S. O. 1887, c. 50, s. 18 (4) ; 53 V. c. 17, s. 3.

Effect of probate and administration.

POWER TO TRY BY JURY.

Courts may cause questions of fact to be tried by a jury.

22. Every Surrogate Court may cause any question of fact arising in any proceeding under this Act, to be tried by a jury before the Judge of the Court; and upon order being made allowing a trial by jury, such trial shall take place at some ensuing sittings of the County Court for the County, and be conducted in the same manner as other trials by jury in the County Courts, and the parties shall be entitled to their right of challenge; and, for all purposes of or auxiliary to the trial of questions of fact by a jury before a Judge of the Surrogate Court, and in respect of new trials, the said Surrogate Courts and the Judges thereof respectively shall have the same jurisdiction, power and authority in all respects as belong to the County Courts, and the Judges thereof, for like purposes. R. S. O. 1887, c. 50, s. 20.

Procedure on trial.

23. When such question is ordered to be tried by a jury before the Judge of a Surrogate Court, the question shall be reduced into writing in such form as the Court directs, and at the trial the jury shall be sworn to try the said question, and a true verdict give thereon according to the evidence; and upon every such trial the Judge of the Surrogate Court shall have the same powers, jurisdiction and authority as belong to the Judge of a County Court sitting for the trial of issues of fact. R. S. O. 1887, c. 50, s. 21.

TERMS.

Terms prescribed.

24.—(1) In order that certain stated times may be fixed for hearing and determining matters and causes in contentious cases and business of a contentious nature in the Surrogate Courts, there shall be four Terms or times of sitting in each year for the purposes aforesaid, which (except in the County of York) shall severally commence on the second Monday in the month of January and the first Monday in the months of April, July and October, and end on the Saturday of the same week. R. S. O. 1887, c. 50, s. 22 (1); 53 V. c. 17, s. 4 (1).

In the County of York.

(2) The Terms of the Surrogate Court of the County of York shall commence on the second Monday in January, June and October, and the first Monday in April in each year, and shall end on the Saturday of the same week. R. S. O. 1887, c. 50, s. 22 (2); 53 V. c. 17, s. 4 (2).

Giving judgment.

(3) The Judges of the several Courts may appoint one or more days for the giving of judgment in the same way as is provided by law in respect to County Courts. R. S. O. 1887, c. 50, s. 22 (3).

WITNESSES, EVIDENCE, ETC.

Attendance of parties or witnesses.

25. Every Surrogate Court may require the attendance of any party in person, or of any person whom it may think fit

to examine or cause to be examined in any suit or other proceeding in respect of matters or causes testamentary, and may examine or cause to be examined upon oath or affirmation, as the case may require, parties and witnesses by word of mouth, and may either before or after, or with or without such examination, cause them or any of them to be examined on interrogatories, or receive their or any of their affidavits or solemn affirmations, as the case may be; and each of the said Courts may, by writ of *subpoena* or *subpoena duces tecum* (as the case may be), require such attendance and the production of any deeds, evidences or writings, before such Court or otherwise.

Production of deeds and instruments, etc.

R. S. O. 1887, c. 50, s. 23.

26.—(1) Whether any suit or other proceeding is or is not pending in the Court with respect to any probate or administration, every Surrogate Court may, on motion or petition or otherwise in a summary way, order any person to produce and bring before the Registrar of the Court or otherwise, as the Court may direct, any paper or writing being or purporting to be testamentary, which may be shewn to be in the possession or under the control of such person.

Orders and proceedings in respect to the production of instruments purporting to be testamentary.

(2) If it is not shewn that any such paper or writing is in the possession or under the control of such person, but if it appears that there are reasonable grounds for believing that he has knowledge of any such paper or writing, the Court may direct such person to attend for the purpose of being examined before the Registrar or in open Court or upon interrogatories respecting the same, and such person shall be bound to answer such questions or interrogatories, and, if so ordered, to produce and bring in such paper or writing, and shall be subject to the like process of contempt in case of default in not attending or in not answering such questions or interrogatories or not bringing in such paper or writing, as he would have been subject to in case he had been a party to a suit in the Court and had made such default; and the costs of such motion, petition or other proceeding, shall be in the discretion of the Court.

Examination of persons touching such instruments.

R. S. O. 1887, c. 50, s. 24.

27. The Judges and Registrars of the Surrogate Courts shall have full power to administer oaths in matters and causes testamentary and in all other matters in any of the said Courts; and Commissioners for taking affidavits in the High Court and Notaries Public shall also have full power respectively to administer oaths in all matters and causes testamentary and in all other matters in the said Courts to parties desirous of making affidavit or deposition before them respectively. R. S. O. 1887, c. 50, s. 25.

Administration of oaths.

Evidence in Contentious Matters.

28. Subject to the regulations established by the Rules and Orders heretofore in force respecting Surrogate Courts, or here-

Mode of taking evidence in contentious matters.

after to be made under this Act, the witnesses, and, where necessary, the parties in all contentious matters where their attendance can be had, shall be examined orally by or before the Judge of the Surrogate Court in open Court; and subject to any such regulations as aforesaid, the parties may verify their respective cases by affidavit; but the deponent in every such affidavit shall, on the application of the opposite party, be subject to be cross-examined by or on behalf of the opposite party orally in open court as aforesaid, and, after such cross-examination, may be re-examined orally in open court as aforesaid by or on behalf of the party by whom such affidavit was filed. R. S. O. 1887, c. 50, s. 26.

Commissions to Examine Witnesses.

Courts may issue commissions for the examination of witnesses.

29. Where a witness in any such matter is without the limits of Ontario, or where by reason of his illness or otherwise, the Court does not think fit to enforce the attendance of the witness in open court, the Surrogate Court may order a commission to issue for the examination of such witness on oath upon interrogatories or otherwise, or if the witness be within the jurisdiction of the Court, may order the examination of such witness on oath upon interrogatories or otherwise, before any person to be named in such order for the purpose. R. S. O. 1887, c. 50, s. 27.

Provisions of certain Acts to apply.

30. All the powers given to the County Courts by law for enabling the said Courts to issue commissions and make orders for the examination of witnesses in actions depending in such Courts and to enforce such examination; and all the provisions of law relating to County Courts for enforcing examinations or otherwise, applicable thereto and to the witnesses examined, shall extend and be applicable to the Surrogate Courts, and to the examination of witnesses under the commissions and orders of the said Courts, and to the witnesses examined, as if such Courts were County Courts, and the matter before them respectively were an action pending in a County Court. R. S. O. 1887, c. 50, s. 28.

Rules of Evidence.

Rules of evidence in High Court to be observed.

31. The rules of evidence observed in the High Court shall be applicable to and observed in the trial of all questions of fact in the Surrogate Courts. R. S. O. 1887, c. 50, s. 29.

ORDERS AND JUDGMENTS HOW ENFORCED.

Power of Court to enforce orders and judgments, etc.

32. Every Surrogate Court shall have the like powers, jurisdiction and authority for enforcing the attendance of persons required by it as aforesaid, and for punishing persons failing, neglecting or refusing to produce deeds, evidences or writings,

or refusing to appear or to be sworn or to make affirmation or to give evidence, or guilty of contempt, and generally for enforcing all orders, and judgments made or given by the Court under this Act, or under any other Act giving jurisdiction to Surrogate Courts, and otherwise in relation to the matters to be enquired into and done by or under the Orders made under this Act, as are vested in the County Courts. R. S. O. 1887, c. 50, s. 19.

REFERENCE OR REMOVAL TO THE HIGH COURT.

33. In every case in which there is contention as to the grant of probate or administration, and the parties in such case thereto agree, the contention shall be referred to and determined by the High Court on a case to be prepared, and the Surrogate Court having jurisdiction in the matter shall not grant probate or administration until the contention is terminated and disposed of by judgment, or otherwise. R. S. O. 1887, c. 50, s. 30.

In cases of contention, the matter may, by consent, be referred for adjudication to the High Court.

34.—(1) Any cause or proceeding in the Surrogate Courts in which any contention arises as to the grant of probate or administration, or in which any disputed question may be raised (as to law or facts, relating to matters and causes testamentary, shall be removable by any party to the cause or proceeding into the High Court by order of a Judge of the said Court, to be obtained on a summary application supported by affidavit, of which reasonable notice shall be given to the other parties concerned. R. S. O. 1887, c. 50, s. 31 (1).

In certain cases of contention, matter may be removed into High Court.

(2) The Judge making the order may impose such terms as to payment or security for costs or otherwise as to him seems fit; but no cause or proceeding shall be so removed unless it is of such a nature and of such importance as to render it proper that the same should be withdrawn from the jurisdiction of the Surrogate Court and disposed of by the High Court, nor unless the property of the deceased exceeds \$2,000 in value. R. S. O. 1887, c. 50, s. 31 (2); 53 V. c. 17, s. 5.

Terms as to costs.

Certain cases not to be so removed.

35. Upon any cause or proceeding being so removed the High Court shall have full power to determine the same, and may cause any question of fact arising therein to be tried by a jury, and otherwise deal with the same as with any cause or claim originally entered in the said Court; and the final order or judgment made by the said Court in any cause or proceeding removed as aforesaid, shall, for the guidance of the Surrogate Court, be transmitted by the Surrogate Clerk to the Registrar of the Surrogate Court from which the cause or proceeding was removed. R. S. O. 1887, c. 50, s. 32.

Power of High Court

Transmission of final order to Surrogate Court.

APPEALS TO THE HIGH COURT.

36. Any person considering himself aggrieved by any order, sentence, or judgment of a Surrogate Court, or being dis-

Persons considering themselves aggrieved.

ed by any judgment, etc., may appeal to the High Court.

Appeals not to lie in certain cases.

satisfied with the determination of the Judge thereof in point of law in any matter or cause under this Act, may, within fifteen days next after such order, sentence, judgment, or determination, appeal therefrom to a Divisional Court of the High Court, in the manner and, subject to the regulations provided for by the Rules and Orders respecting the Surrogate Courts heretofore in force, or by Rules or Orders made under this Act; and the said Court shall hear and determine such appeal; but no such appeal shall be had or lie unless the value of the property, goods, chattels, rights or credits to be affected by such order, sentence, judgment, or determination exceeds \$200. R. S. O. 1887, c. 50, s. 33; 53 V. c. 17, s. 6; 58 V. c. 13, s. 45.

PRACTICE.

Proofs to lead grant.

Practice of the Courts, general rule as to.

37. Unless otherwise provided by this Act or by the Rules or Orders respecting Surrogate Courts heretofore in force, or hereafter to be made under this Act, the practice of the Surrogate Courts shall, so far as the circumstances of the case will admit, be according to the practice in Her Majesty's Court of Probate in England, as it stood on the 5th day of December, 1859. R. S. O. 1887, c. 50, s. 34.

Proof, etc., requisite for obtaining grant of probate of administration where deceased resided in Ontario.

38. On every application to a Surrogate Court for probate of will or letters of administration where the testator or intestate was resident in Ontario at the time of his death, the place of abode of the testator or intestate at the time of his death shall be made to appear by affidavit of the person or some one of the persons making the application; and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration (as the case may be) may be granted under the seal of the Surrogate Court to which the application has been so made; and the probate or letters of administration shall have effect over the property of the deceased in all parts of Ontario, subject to limitation under section 61 of this Act or otherwise. R. S. O. 1887, c. 50, s. 35; 53 V. c. 17, s. 7.

Effect of probate or administration.

When testator, etc., had no fixed place of abode in or resided out of Ontario, upon what proof probate or administration to be granted, etc.

39. On every application for probate of a will or letters of administration where the testator or intestate had no fixed place of abode in or resided out of Ontario at the time of his death, the same shall be made to appear by affidavit of the person or some one of the persons applying for the probate or administration, and that the deceased died leaving personal or real property within the county in the Surrogate Court of which the application is made, or leaving no personal or real property in Ontario, as the case may be, and that notice of the application has been published at least three times successively in the *Ontario*

Gazette; and thereupon and upon proof of the will, or in case of intestacy, upon proof that the deceased died intestate, probate of the will or letters of administration, as the case may be, may be granted under the seal of such Surrogate Court; and the probate or letters of administration shall have effect over the property of the deceased in all parts of Ontario, subject to limitation under section 61 of this Act or otherwise. R. S. O. 1887, c. 50, s. 36; 53 V. c. 17, s. 8.

40. The affidavit as to the place of abode and property of a testator or intestate under the next preceding two sections, for the purpose of giving a particular Court jurisdiction, shall be conclusive for the purpose of authorizing the exercise of such jurisdiction; and no grant of probate or administration shall be liable to be recalled, revoked or otherwise impeached by reason that the testator or intestate had no fixed place of abode within the particular county at the time of his death, or had not property therein at the time of his death; and every probate and administration granted by a Surrogate Court shall effectually discharge and protect all persons paying to or dealing with any executor or administrator thereunder, notwithstanding the want of or defect in such affidavit as is hereby required; but in case it is made to appear to the Judge of a Surrogate Court before whom any matter is pending under this Act, that the place of abode of the testator or intestate, or the situation of his property, has not been correctly stated in the affidavit, the Judge may stay all further proceedings and make such order as to the costs of the proceedings before him as he thinks just. R. S. O. 1887, c. 50, s. 37; 53 V. c. 17, s. 9.

Affidavit grounding application for grant to be conclusive for exercise of jurisdiction if acted on.

Judge may stay proceedings in case of incorrect statement.

41. In case application is made for letters of administration by a person not entitled to the same as next of kin to the deceased, the next of kin or others having or pretending interest in the property of the deceased resident in Ontario, shall be cited or summoned to see the proceedings, and to shew cause why the administration should not be granted to the person applying therefor; and if neither the next of kin nor any person of the kindred of the deceased happens to reside in Ontario, then a copy of the citation or summons shall be served or published in such manner as may be provided for by the Rules or Orders in that behalf. R. S. O. 1887, c. 50, s. 38; 53 V. c. 17, s. 10.

Proof, etc., requisite for obtaining grant to party not next of kin to intestate.

42. If the next of kin, usually residing in Ontario and regularly entitled to administer, happens to be absent from Ontario, the Surrogate Court having jurisdiction in the matter may, in its discretion, grant a temporary administration, and appoint the applicant, or such other person as the Court thinks fit, to be administrator of the property of the deceased person for a limited time, or to be revoked upon the return of such next of kin as aforesaid. R. S. O. 1887, c. 50, s. 39; 53 V. c. 37, s. 11.

Temporary administration in certain cases.

Security to be given.

43. The administrator so appointed shall give such security as the Court directs, and shall have all the rights and powers of a general administrator, and shall be subject to the immediate control of the Court. R. S. O. 1887, c. 50, s. 40.

Notice of Applications.

As to transmission of notice of applications for grants of probates, etc. to Surrogate Clerk by Registrars.

44. In case of an application to a Surrogate Court for the grant of probate or administration, notice thereof shall, by the Registrar of the Court, by letter post paid, be transmitted to the Surrogate Clerk by the next post after the application, and the notice shall specify the name and description or addition, if any, of the testator or intestate, the time of his death, and the place of his abode at his decease, as stated in the affidavit or affidavits made in support of the application, and the name of the person by whom the application has been made, and such other particulars as may be directed by the Rules or Orders in that behalf. R. S. O. 1887, c. 50, s. 41.

Proceedings to be stayed till certificate received from Surrogate Clerk.

45. Unless upon special order or judgment of the Surrogate Court, no probate or administration shall be granted in pursuance of the application until the Registrar has received a certificate, under the hand of the Surrogate Clerk, that no other application appears to have been made in respect of the goods of the same deceased person, which certificate the Surrogate Clerk shall forward as soon as may be to the Registrar. R. S. O. 1887, c. 50, s. 42.

Surrogate Clerk to file notices.

46. All notices in respect of applications in the several Surrogate Courts shall be filed and kept by the Surrogate Clerk. R. S. O. 1887, c. 50, s. 43.

Duty of Surrogate Clerk with reference to notices.

47. The Surrogate Clerk shall, with reference to every such notice, examine all notices of such applications received from the several other Surrogate Court Registrars, so far as appears to be necessary, to ascertain whether or not application for probate or administration in respect of the property of the same deceased person has been made in more than one Surrogate Court, or whether notice of an appointment by the High Court has been received, and he shall communicate with the Surrogate Court Registrars as occasion may require in relation to such applications; and all appointments by the High Court shall be noted by the Surrogate Clerk in the application book. R. S. O. 1887, c. 50, s. 44; 53 V. c. 17, s. 12; 60 V. c. 15, Sched. A (15).

Appointments by High Court to be noted.

Proceedings if application has been made to more than one Surrogate Court.

48. In case it appears by the certificate of the Surrogate Clerk that application for probate or administration has been made to two or more Surrogate Courts, the Judges of such Courts respectively shall stay proceedings therein, leaving the parties to apply to one of the Judges of the High Court to give such direction in the matter as to him seems necessary. R. S. O. 1887, c. 50, s. 45.

49. On application made to such Judge of the High Court, he shall inquire into the matter in a summary way, and adjudge and determine what Surrogate Court has jurisdiction and shall proceed in the matter. Judgment as to what Court shall have jurisdiction. R. S. O. 1887, c. 50, s. 46.

50. The Judge of the High Court may order costs to be paid by any of the applicants, and the order shall be enforced by the High Court. Order as to costs. R. S. O. 1887, c. 50, s. 47.

51. The determination of the Judge shall be final and conclusive, and the Surrogate Clerk shall without delay transmit a certified copy thereof to the Registrars of the several Surrogate Courts wherein such applications as aforesaid have been made. Judge's decision to be final. R. S. O. 1887, c. 50, s. 48.

Caveats.

52. Caveats against the grant of probate or administration may be lodged with the Surrogate Clerk or with the Registrar of any Surrogate Court, and, subject to any Rules or Orders under this Act, the practice and procedure under such caveats shall as nearly as may be correspond with the practice and procedure under caveats in use on the 5th day of December, 1859, in Her Majesty's Court of Probate in England. Practice respecting caveats. R. S. O. 1887, c. 50, s. 49.

53. Upon a caveat being lodged in a Surrogate Court, the Registrar of the Court shall without delay send a copy thereof to the Surrogate Clerk to be entered among the caveats lodged with him, and upon notice of an application being received from the Registrar of a Surrogate Court under section 44, the Surrogate Clerk shall without delay forward to the Registrar, notice of any caveat that has been so lodged as aforesaid touching such application, and the notice shall accompany or be embodied with the certificate mentioned in section 45. Notice of caveats to be transmitted to the proper Surrogate Courts. R. S. O. 1887, c. 50, s. 50.

Proof of Wills in Solemn Form.

54. Where proceedings are taken under this Act for proving a will in solemn form, or for revoking the probate of a will on the ground of the invalidity thereof, or where in any other contentious cause or matter under this Act the validity of a will is disputed, unless the will affects only personal estate, the heir or heirs at law, devisees or other persons having or pretending to have any interest in the real estate affected by the will, may, subject to the provisions of this Act and to the Rules and Orders relating to Surrogate Courts heretofore in force or hereafter to be made under this Act, be cited to see proceedings or be otherwise summoned in like manner as the next of kin or others having or pretending interest in the personal estate Where a will affecting real estate is proved in solemn form, or is the subject of contentious proceedings, heirs, etc., may be cited.

affected by a will should be cited or summoned, and may be permitted to become parties, subject to such Rules and Orders and to the discretion of the Court; but nothing herein contained shall make it necessary to cite the heirs at law, or other person having or pretending interest in the real estate of a deceased person, unless the Court with reference to the circumstances of the case, directs the same to be done. R. S. O. 1887, c. 50, s. 51

COPIES OF WILLS.

Official copy of the whole or part of a will may be obtained.

55. An official copy of the whole or any part of a will, or an official certificate of the grant of any letters of administration, may be obtained from the Registrar of the Surrogate Court where the will has been proved or the administration granted, on payment of such fees as may be fixed for the same by the Rules and Orders heretofore in force or hereafter made under this Act. R. S. O. 1887, c. 50, s. 52.

ADMINISTRATION PENDENTE LITE.

Administration *pendente lite* may be granted.

Rights and powers of the administrator.

56. Pending an action touching the validity of the will of any deceased person, or for obtaining, recalling or revoking any probate or grant of administration, the Court in which an action is pending may appoint an administrator of the property of the deceased person; and the administrator so appointed shall have all the rights and powers of a general administrator other than the right of distributing the residue of the property; and every such administrator shall be subject to the immediate control of the Court and act under its direction; and the Court may direct that such administrator shall receive out of the property of the deceased such reasonable remuneration as the Court thinks fit. R. S. O. 1887, c. 50, s. 53; 53 V. c. 17, s. 13.

ADMINISTRATION WITH WILL ANNEXED.

Administration with the will annexed, practice as to, etc.

57. Where administration is granted with the will annexed, a bond shall (unless it is otherwise provided by law) be given to the Judge of the Court as in other cases and with like effect and unless otherwise provided for by this Act or the Rules or Orders relating to Surrogate Courts from time to time in force, the practice and procedure in respect to such administrations and in respect to such bonds and the assignment thereof shall, so far as the circumstances of the case will admit, be according to the practice in such cases in Her Majesty's Court of Probate in England, on the 5th day of December, 1859. R. S. O. 1887, c. 50, s. 54.

Applicant for administration to depose to value of the realty in certain cases.

58. In every case where any person applies to be appointed an administrator with the will annexed of a person who died before the first day of July, 1886, and a bond is by law

required to be given, he shall in his application state, and in his affidavit of the value of the property devolving shall depose to the value or probable value of all the real estate over which, or over any estate in which, the executor or executors named in the will or codicil were by the said will or codicil clothed with any power of disposition, or of all the real estate, which in case of no executor being appointed, was by the will or codicil directed to be disposed of, without any person being appointed to effect such disposition; and in every such case the bond to be given by such person upon his obtaining a grant of administration with the said will annexed, shall, as respects the amount of the penalty of the bond, and the justification of the sureties, include the amount of the value or probable value so stated and deposed to; and the condition of the bond, in addition to the other provisions thereof, shall provide that the administrator shall well and truly pay over and account for, to the person or persons entitled to the same, all moneys and assets to be received by him for or in consequence of the exercise by him of any power over real estate created by the will or codicil, and which may be exercised by him. R. S. O. 1887, c. 50, s. 55; 53 V. c. 17, s. 14.

POWER AS TO APPOINTMENT OF ADMINISTRATOR.

59. Where a person has died wholly intestate as to his property, or leaving a will affecting property, but without having appointed an executor thereof willing and competent to take probate, or where the executor was at the time of the death of such person resident out of Ontario, and it appears to the Court to be necessary or convenient in such case, by reason of the insolvency of the estate of the deceased, or other special circumstances, to appoint some person to be the administrator of the property of the deceased or of any part of such property other than the person who if this section had not been enacted would by law have been entitled to a grant of administration to such property, it shall not be obligatory upon the Court to grant administration of the property of such deceased person to the person who if this section had not been enacted would by law have been entitled to a grant thereof, but the Court in its discretion may appoint such person as the Court thinks fit upon his giving such security (if any) as the Court directs, and every such administration may be as limited as the Court thinks fit. R. S. O. 1887, c. 50, s. 56; 53 V. c. 17, s. 15.

General power as to appointment of administrator under special circumstances.

60. After a grant of administration no person shall have power to sue or prosecute any action, or otherwise act as executor of the deceased as to the property comprised in or affected by such grant of administration, until such administration has been recalled or revoked. R. S. O. 1887, c. 50, s. 57; 53 V. c. 17, s. 16.

After grant of administration no person to act as executor.

Administration limited to personal estate.

61. A person entitled to take out letters of administration to the estate of a deceased person shall be entitled to take out such letters limited to the personal estate of the deceased, exclusive of the real estate. R. S. O. 1887, c. 50, s. 58.

REVOCATION OF TEMPORARY GRANTS.

Revocation of temporary grants of administration not to prejudice actions.

62. In case, before the revocation of any temporary administration, proceedings have been commenced by or against the administrator so appointed, the Court in which the proceedings are pending may order that a suggestion be made upon the record of the revocation of such administration, and of the grant of probate or administration which has been made consequent thereupon, and the proceedings shall be continued in the name of the new executor or administrator in like manner as if the proceedings had been originally commenced by or against such new executor or administrator, but subject to such conditions and variations, if any, as the Court may direct. R. S. O. 1887, c. 50, s. 59.

VALIDITY OF PAYMENTS UNDER REVOKED GRANTS.

Payments under probate or administration afterwards revoked to be valid.

63. In case any probate or administration is revoked under this Act, all payments *bona fide* made to any executor or administrator under such probate or administration before the revocation thereof, shall be a legal discharge to the person making the same; and the executor or administrator who has acted under such revoked probate or administration may retain and reimburse himself in respect of payments made by him which the person to whom probate or administration may be afterwards granted might have lawfully made. R. S. O. 1887, c. 50, s. 60.

Persons, etc., making payment upon probate granted, indemnified, etc.

64. All persons and corporations making or permitting to be made any payment or transfer *bona fide* upon any probate or letters of administration granted in respect of the estate of any deceased person under the authority of this Act, shall be indemnified and protected in so doing, notwithstanding any defect or circumstance whatsoever affecting the validity of the probate or letters of administration. R. S. O. 1887, c. 50, s. 61.

EXECUTOR RENOUNCING.

Right of executor renouncing probate, to cease absolutely.

65. Where a person renounces probate of the will of which he is appointed executor (or one of the executors), his rights in respect of the executorship shall wholly cease, and the representation to the testator and the administration of his effects shall and may without any further renunciation go, devolve and be committed in like manner as if he had not been appointed executor. R. S. O. 1887, c. 50, s. 62.

REMOVAL OF EXECUTOR OR ADMINISTRATOR.

66.—(1) The Surrogate Court by which the grant of probate or letters of administration was made shall where the entire estate left by the testator or intestate does not exceed \$1,000 have the like authority for the removal of an executor or administrator as is by section 39 of *The Judicature Act* conferred upon the High Court, but nothing in this section contained shall affect the jurisdiction of a Surrogate Court to revoke a grant of probate or of letters of administration in any case where prior to the 7th day of April, 1896, it possessed such authority.

Power to remove executors or administrators in certain cases. Rev. Stat. c. 51.

(2) Where the executor or administrator removed is not a sole executor or administrator the Court need not, unless it sees fit, appoint any person to act in the room of the person removed, and if no such appointment is made the rights and estate of the executor or administrator removed shall pass to the remaining executor or administrator as if the person so removed had died. 59 V. c. 20, s. 1.

(3) Subject to Rules made under this Act, the practice in the Surrogate Courts under this section shall be the same as nearly as may be as the practice in force in respect of proceedings for the revocation of grants of probate. 59 V. c. 20, s. 2.

(4) The executor of any person appointed an executor under this section shall not by virtue of such executorship be an executor of the estate of which his testator was appointed executor under this section, whether such person acted alone or was the last survivor of several executors. 59 V. c. 20, s. 3.

Executor of an executor.

67. A certified copy of the order of removal shall be filed with the Surrogate Clerk and another copy with the Registrar of the Surrogate Court by which probate or administration was granted, and such officers shall at or upon the entry of the grant in the registers in their respective offices make in red ink a short note giving the date and effect of the order and shall also make a reference thereto in the index of the register at the place where such grant is indexed. 59 V. c. 20, s. 4.

Order for removal.

SECURITIES.

68. So much of the Act passed in the 21st year of King Henry the Eighth, and chaptered 5, and of the Act passed in the 22nd and 23rd years of King Charles the Second, and chaptered 10, and of the Act passed in the 1st year of King James the Second, and chaptered 17, as requires any surety, bond or other security to be taken from a person to whom administration may be committed, shall not extend to or be in force in Ontario. R. S. O. 1887, c. 50, s. 63.

Repeal of certain provisions requiring sureties for administrators. 21 H. viii. c. 5, 22-23 Car. ii, c. 10; 1 Jas. ii, c. 17.

69. Except where otherwise provided by law, every person to whom a grant of administration is committed shall give

Persons receiving grants of adminis-

tration to give a bond to the Judge of the Surrogate Court from which the bonds, etc. grant is made, to enure for the benefit of the Judge of the Court for the time being (or in case of the separation of counties, to enure for the benefit of any Judge of a Surrogate Court to be named by the High Court, for that purpose), with one or more surety or sureties as may be required by the Judge of such Surrogate Court, conditioned for the due collecting, getting in and administering the real and personal estate of the deceased, and the bond shall be in the form prescribed by the Rules and Orders now in force or hereafter made under this Act; and in cases not provided for by such Rules and Orders, the bond shall be in such form as the Judge of the Surrogate Court may by special order direct. R. S. O. 1887, c. 50, s. 64.

Penalty in bonds, etc., and as to dividing liabilities of sureties.

70. Subject to the provisions of section 58 of this Act, the bond shall be in a penalty of double the amount under which the real and personal estate and effects of the deceased have been sworn, unless the Judge thinks fit to direct (as he may do) that the same shall be reduced, and the Judge may also direct that more bonds than one may be given, so as to limit the liability of any surety to such amount as the Judge thinks reasonable. R. S. O. 1887, c. 50, s. 65.

Power of Surrogate Courts as to assignment of bonds.

71. The Judge, on application made on motion or petition in a summary way, and on being satisfied that the condition of the bond has been broken, may order the Registrar of the Court to assign the same to some person to be named in the order, and such person, his executors or administrators, shall thereupon be entitled to sue on the said bond in his own name, as if the same had been originally given to him, instead of to the Judge of the Court, and shall be entitled to recover thereon, as trustee for all persons interested, the full amount recoverable in respect of any breach of the condition of the bond; and all bonds heretofore given or taken in any Surrogate Court, and now in force, may in like manner be assigned under the authority of the Judge of a Surrogate Court, and the assignee shall be entitled to sue and recover thereon in his own name, and the same may be enforced in the same way and to the same extent as bonds given under this Act. R. S. O. 1887, c. 50, s. 66.

[As to bonds of guarantee companies see Cap. 220.]

ACCOUNTS OF EXECUTOR OR ADMINISTRATOR.

Approval of accounts by Surrogate Judge to be binding in High Court.

72. Where an executor or administrator has filed in the proper Surrogate Court an account of his dealings with the estate of which he is executor or administrator, and the Judge has approved thereof, in whole or in part, if the executor or administrator is subsequently required to pass his accounts in the High Court, such approval except so far as mistake or fraud is shown, shall be binding upon any person who was

notified of the proceedings taken before the Surrogate Judge, or who was present or represented thereat, and upon every one claiming under any such person. 59 V. c. 20, s. 5.

73.—(1) Notwithstanding anything to the contrary contained in any bond or other security heretofore or hereafter made and entered into with respect to the administration of an estate, or in any letters probate or letters of administration, no executor or administrator shall be compellable to render an account of his executorship or administration to the Surrogate Court within eighteen months, except in cases in which a party interested in an estate takes proceedings to obtain an inventory and accounting, or in which infants are interested in such inventory and accounting. Passing accounts.

(2) The oaths to be taken by executors and administrators, and the bonds or other security to be given by administrators, and letters probate and letters of administration hereafter issued, shall require the executor and administrator to render a just and full account of his executorship or administration only when thereunto lawfully required. 57 V. c. 22, s. 1; 58 V. c. 13, s. 30. Condition of bond.

ESTATES OF SMALL VALUE.

74. Where the whole estate and effects, real and personal, of any testator or intestate do not exceed in value the sum of \$400, his widow, or one or more of his children or next of kin, or his executors, or any trustee, or duly authorized solicitor or agent of such widow, child, next of kin or executors may apply to the Judge of the Surrogate Court of the proper county, and the Registrar of the said Court shall fill up the usual papers required by the Surrogate Court to lead to a grant of probate of the will of the testator or letters of administration of the estate and effects of the said testator or intestate, and shall swear the applicant and attest the execution of the administration bond according to the practice of the said Court and shall then transmit a notice of the application by post to the Surrogate Clerk at Toronto; and the Registrar, on obtaining the approval or order of the Judge of the Surrogate Court, shall in due course make out and seal the probate of the will of the testator, or letters of administration of the estate and effects of the testator or intestate to be delivered to the party so applying for the same without the payment of any fee for the same, save as is provided by section 76 of this Act. R. S. O. 1887, c. 50, s. 67; 53 V. c. 17, s. 17. Proceedings in Surrogate Court for administration.

75. The Judge of the Surrogate Court may require such proof as he may think sufficient to establish the identity and relationship of the applicant; and if the Judge has reason to believe that the whole property of which the testator or intestate died possessed exceeds in value the sum of Proof of relationship. Judge to be satisfied that the value of the estate is less than \$400.

\$400, he shall refuse to proceed with the application under the last preceding section until he is satisfied as to the real value thereof. R. S. O. 1887, c. 50, s. 68 ; 53 V. c. 17, s. 18.

Scale of fees.

76. Such fees as the Lieutenant-Governor in Council may think proper, shall be payable to the Judges and Registrars of the Surrogate Courts, on proceedings under sections 74 and 75, but the total amount for all proceedings and services to be charged to applicants, shall not in any one case exceed the sum of \$2. R. S. O. 1887, c. 50, s. 69.

Fees of Registrar and Judge when estate under \$1,000.

77. Where the whole estate of the testator or intestate exceeds in value the sum of \$400, but does not exceed \$1,000, the fees payable to the Registrar and to the Judge on proceedings under this Act, in non-contentious cases, shall be one-half of the fees payable on the 5th day of May, 1894, in the case of any estate not exceeding in value the sum of \$1,000. 57 V. c. 22, s. 2.

ANCILLARY PROBATES AND LETTERS OF ADMINISTRATION.

Manner of giving effect to grants of probate, etc., of English or Colonial Courts.

78. Where any probate or letters of administration, or other legal document purporting to be of the same nature, granted by a Court of competent jurisdiction in the United Kingdom, or in any Province or territory of the Dominion, or in any other British Province, is produced to, and a copy thereof deposited with, the Registrar of any Surrogate Court of this Province, and the prescribed fees are paid as on a grant of probate or administration, the probate, or letters of administration or other document aforesaid, shall, under the direction of the Judge, be sealed with the seal of the said Surrogate Court, and shall thereupon be of the like force and effect in Ontario, as respects personal estate only, as if the same had been originally granted by the said Surrogate Court of this Province, and shall (so far as regards this Province) be subject to any orders of the last mentioned Court, or on appeal therefrom, as if the probate or letters of administration had been granted thereby. 51 V. c. 9, s. 1 (1).

Security required.

79. The letters of administration shall not be sealed with the seal of the said Surrogate Court until a certificate has been filed under the hand of the Registrar of the Court which issued the letters, that security has been given in such Court in a sum of sufficient amount to cover as well the assets within the jurisdiction of such Court as the assets within Ontario, or in the absence of such certificate, until like security is given to the Judge of the Surrogate Court covering the assets in Ontario as in the case of granting original letters of administration. 51 V. c. 9, s. 1 (2).

[Proclamation bringing 51 V. c. 9 into full force, published in Gazette, 27th May, 1893. For Order of Her Majesty in

Council applying "*The Colonial Probates Act, 1892*," to the Province of Ontario and for Rules under that Act see *Statutes of Ontario, 1895, page x.*]

FEES AND COSTS.

80.—(1) The fees mentioned in Schedule A to this Act shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps*, on proceedings under this Act. As to fees payable to the Crown.
Rev. Stat. c. 25.

(2) The stamps for all fees payable to the Crown in respect of a grant of probate or administration shall be affixed to the order for the grant, and not to the probate or letters of administration. R. S. O. 1887, c. 50, s. 70 ; 59 V. c. 18, s. 8. Stamp to be attached to order for grant.

81. Subject to the provisions of sections 74 to 77 and section 82, the Judges of the several Surrogate Courts may demand and take to their own use the fees mentioned in Schedule B to this Act, and such fees shall be collected by the Registrars of the said Courts on or before each proceeding and paid over to the Judges, and annual returns of such fees, up to the 31st day of December in each year, shall be made by the Registrars on or before the 1st day of February in each year. R. S. O. 1887, c. 50, s. 71. As to fees to be taken by Judges, etc., to their own use.

82. The fees payable on proceedings under this Act shall be based on the amount of what, before the 1st day of July, 1886, was personal property. R. S. O. 1887, c. 50, s. 72. On what property fees to be charged.

83.—(1) The Lieutenant-Governor in Council may, with the consent of any County Court or Surrogate Court Judge, commute the fees payable to him under this Act for a fixed annual sum; such sum not to exceed the income derived from such fees in some preceding year; and any sum so fixed may, as vacancies occur, be rescinded, or may be varied and the amount increased or diminished; provided that in no case shall any Order in Council name a sum exceeding the receipts for fees during some preceding year Commutation of fees of Judges.

(2) In case of commutation, the like sums and fees theretofore payable to the Judge shall continue to be payable, and shall be paid in stamps, subject to the provisions of *The Act respecting Law Stamps*. R. S. O. 1887, c. 50, s. 73 (1, 2); 59 V. c. 18, s. 8. Rev. Stat. c. 25.

(3) Where there is no commutation and the fees aforesaid exceed the sum of \$1,000 in any year, the excess shall be received by the Registrar and paid over to the Treasurer of the Province for the use of the Province.

(4) The preceding sub-section shall not apply so as to reduce the amount payable to the Judge in any year to a sum less

than the aggregate amount of the fees payable to him for such year in respect of fees provided for by the Consolidated Statutes of Upper Canada, chapter 16, schedule "B," and exclusive of the additional fees assigned to Surrogate Judges by the Act passed in the 40th year of Her Majesty's reign, chapter 7, Schedule A (65). R. S. O. 1887, c. 50, s. 73 (3, 4).

Payment of
part of
fees to Junior
County
Judges.

84.—(1) Where the fees payable to a Surrogate Judge exceed the sum of \$1,000, a sum not exceeding \$666 may, on the authority of an Order in Council, be paid out of the excess to the Junior Judge (if any) of the county, whether there has or has not been a commutation of fees as regards the Senior Judge.

Rev. Stat.
c. 51.

(2) The Order in Council shall be laid before the Legislative Assembly as provided by section 187 of *The Judicature Act*. R. S. O. 1887, c. 50, s. 73 (5); 52 V. c. 10, s. 5.

Fees to
officers.

85. The Registrars and officers of the Surrogate Courts, and Barristers and Solicitors practising therein, shall be entitled to take for the performance of duties and services under this Act, such fees as may be fixed under the provision hereinafter contained. R. S. O. 1887, c. 50, s. 74.

Table of fees
continued.
Rev. Stat.
c. 60.

86.—(1) The tables of fees and costs framed by the Board of County Court Judges mentioned in section 305 of *The Division Courts' Act*, and approved by the Judges of the Supreme Court of Judicature on the 6th day of February 1892, as the fees and costs to be taken by the Registrars and officers of the Surrogate Courts, and to be allowed to Solicitors and Counsel practising therein for duties and services in respect of proceedings in the said Courts and to witnesses therein, are hereby continued, until altered under the authority of this Act; and no other fees than those specified and allowed in the tables or than the altered fees (as the case may be) shall be taken or received by such Registrars, Officers, Solicitors and Counsel.

No other fees
to be taken
until altered.

(2) The said Board or the Board of County Judges appointed under section 306 of the said Act may from time to time alter and amend the said tables or may frame a new tariff in respect of the said matters or any of them and may frame rules for regulating the practice and procedure in the Surrogate Courts.

Rev. Stat.
c. 51.

(3) The Board or any three of them shall certify to the Judges authorized to make rules under section 122 or section 125 of *The Judicature Act*, any rules or tariff so framed, or any alteration thereof, and any Judges authorized to make rules under the said Act may approve, disallow or amend any such rules, tariff or alterations.

(4) Any rule, tariff or alteration so approved of, or amended and approved, shall have the same force and effect as if it had been enacted by the Legislature of this Province. R. S. O. 1887, c. 50, ss. 75, 76, 78 (1); 60 V. c. 15, Sched. A (16).

87. The bill of any solicitor for any fees, charges or disbursements in respect of business transacted in a Surrogate Court, whether contentious or otherwise, or any matter connected therewith, shall, as well between solicitor and client as between party and party, be subject to taxation in such Surrogate Court, and the mode in which the bill shall be referred for taxation, and the person by whom the costs of taxation shall be paid, shall be regulated by the rules and orders now in force or to be hereafter made under this Act and the certificate of the Registrar of the amount at which the bill is taxed shall be subject to appeal to the Judge of the Court. R. S. O. 1887, c. 50, s. 77. Taxation of costs.

RULES OF COURT.

88. The Judges of the Supreme Court of Judicature and of the High Court respectively shall have the same authority to make rules of Court with respect to the Surrogate Courts as, by section 122 of *The Judicature Act*, they have with respect to the High Court; and may prescribe forms for carrying into effect the intention of *The Devolution of Estates Act*, and of this Act so far as the said Acts may affect the proceedings in the Surrogate Courts; and the Judges authorized as mentioned in section 125 of *The Judicature Act* shall with respect to the Surrogate Courts have the like authority. R. S. O. 1887, c. 50, s. 78 (1); 53 V. c. 17, s. 19. Surrogate Court rules.
Rev. Stat. c. 51.
Rev. Stat. c. 127.

CONSTRUCTION OF ACT.

89. If any of the provisions of this Act shall be found to be inconsistent with the provisions of *The Devolution of Estates Act*, this Act shall be construed so as to conform in all respects with the true intent and meaning of *The Devolution of Estates Act*. 53 V. c. 17, s. 20. Construction of this Act.
Rev. Stat. c. 127.

SCHEDULE A.

(Section 80.)

FEEES PAYABLE TO THE CROWN.

On proceedings in the offices of Registrars.

	\$	c.
On every application for probate or administration or for guardianship (including notice thereof to Surrogate Clerk, but not postage)	0	50
On certificate of Surrogate Clerk upon such application (including transmission to Registrar, but not postage)	0	50
On every instrument or process with seal of Court	0	50

Entry and notification of caveat, not including postage.....	0 50
On every grant of probate or administration, as follows, viz :	
Where the property devolving is under \$1 000.....	0 50
For every additional \$1,000.....	0 50
On every final judgment in contentious or disputed cases.....	1 00
On deposit of wills for safe custody, each	0 50

On proceedings in the office of the Surrogate Clerk.

On every search for grant of probate, administration, guardianship, or other matter in Clerk's office (other than searches on applica- tion of Registrars)	0 50
On every certificate of search or extract.....	1 00
(If exceeding three folios, 10 cents for each additional folio.)	
On every other certificate issued by the Surrogate Clerk.....	0 50
On every order made on application to a Judge in the High Court and transmission of same, exclusive of postage.....	0 80
On entry of every appeal.....	1 00
On every judgment on appeal and transmission, exclusive of postage	3 00
On entry of caveat.....	0 50
On every judgment or order on appeal.....	2 50

R. S. O. 1887, c. 50, Sched. A.

SCHEDULE B.

(Section 81.)

FEES ALLOWED TO JUDGE.

On every grant of probate or administration :	
Where the property devolving is under \$1,200.....	2 00
Where the property devolving is from \$1,200 to \$3,000....	3 00
Where the property devolving is from \$3,000 to \$4,000....	4 00
And for every additional \$1,000, the additional sum of.	1 00
On every appointment of a guardian.....	2 00
On every order.....	0 50
On every special attendance, or attendance for purpose of audit..	1 00
For every day's sittings in contentious or disputed cases.....	2 00

R. S. O. 1887, c. 50, Sched. B; 59 V. c. 20, s. 7.

CHAPTER 60.

An Act respecting the Division Courts.

SHORT TITLE, s. 1.	COSTS, ss. 213-216.
INTERPRETATION, ss. 2, 276.	PROCEEDINGS NOT TO BE SET ASIDE FOR WANT OF FORM, s. 217.
CONSTITUTION OF COURTS—	PROCEEDINGS TO ENFORCE JUDGMENTS—
Nature of and number in each county, ss. 3-7.	Execution, ss. 218-241.
Time and place of holding, ss. 8-14.	Death of Bailiff, s. 242.
Alteration of Divisions and establishment of new Divisions, ss. 15, 16.	Examination of Judgment debtors, ss. 243-256.
Establishment on separation of United Counties, ss. 17-21.	Absconding debtors, ss. 257-275.
JUDGES, ss. 22-26.	CLAIMS OF LANDLORDS AND OTHERS IN RESPECT TO GOODS SEIZED, ss. 276-282.
CLERKS AND BAILIFFS, SECURITY BY, DUTIES AND FEES OF, ss. 27-62, 69, 70, 241.	OFFENCES AND PENALTIES —
INSPECTOR—	Contempt of Court, s. 283.
Duties, ss. 63, 64.	Resisting officers, s. 284.
Clerks and Bailiffs to report to, ss. 65-68.	Misconduct of officers, s. 285.
JURISDICTION OF COURTS, ss. 71-82.	Extortion by officers, s. 286.
PROCESS AND PROCEDURE, ss. 83-136.	Negligence of officers, ss. 287-289.
WITNESSES AND EVIDENCE, ss. 137-149.	ENFORCEMENT OF FINES, ss. 290-292.
JUDGE'S DECISION, ss. 150-153.	PROTECTION OF OFFICERS ACTING UNDER WARRANTS, ss. 293-296.
APPEALS, ss. 154-159.	GENERAL PROVISIONS AS TO ACTIONS FOR THINGS DONE UNDER THIS ACT, ss. 297-300.
JURY CASES, ss. 160-178.	DISPOSAL OF FINES, s. 301.
PROCEEDINGS TO GARNISH DEBTS, ss. 179-205.	DISPOSAL OF MONEY IN COURT, ss. 302-304.
ARBITRATIONS, ss. 206-210.	GENERAL RULES AND ORDERS, ss. 305-312.
CONFESSIONS OF DEBT, ss. 211, 212.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Division Courts Act*." Short title.
R. S. O. 1887, c. 51, s. 1.

2. In the construction of this Act,

Interpreta-
tion.

"County" shall include two or more Counties united for judicial purposes; and in any form or proceeding the words "United Counties" shall be introduced where necessary.
R. S. O. 1887, c. 51, s. 2.

THE COURTS.

Courts continued.

3. The Division Courts, and the limits and extent thereof existing at the time this Act takes effect, shall continue until altered by law. R. S. O. 1887, c. 51, s. 3.

Number of Courts in each county.

4. There shall not be less than three nor more than twelve Division Courts in each County, of which Division Courts there shall be at least one in each City and County Town. R. S. O. 1887, c. 51, s. 4.

Designation of Court.

5. The Court in each division shall be called "The First Division Court in the County of _____,"
(*or as the case may be*). R. S. O. 1887, c. 51, s. 5.

Each Court to have a seal.

6. Every Division Court shall have a seal, with which all process of the Court shall be sealed or stamped, and such seal shall be paid for out of the Consolidated Revenue Fund. R. S. O. 1887, c. 51, s. 6.

Not to be Courts of Record.

7. The Division Courts shall not be held to constitute Courts of Record, but the judgments in the said Courts shall have the same force and effect as judgments of Courts of Record. R. S. O. 1887, c. 51, s. 7.

Time and place of holding Courts.

8. A Court shall be holden in each division once in every two months, or oftener in the discretion of the Senior or the acting County Judge; and the Judge may appoint and from time to time alter the times and places within such divisions, when and at which such Courts shall be holden. R. S. O. 1887, c. 51, s. 8.

Holding Courts in cities, and offices of Clerk therein.

9. Notwithstanding anything contained in this Act, or any of the general rules now or hereafter in force in the Division Courts of this Province, in any City in which two Division Courts are established or held, all or any of the sittings of both of such Courts may be appointed and held in either of such divisions, and the Clerks of both Courts may, with the approval of the Lieutenant-Governor in Council, have and keep their offices in the same division in such City, and the Lieutenant-Governor in Council may designate and appoint the place within any division in the Province where the office of the Clerk of such division shall be situated. R. S. O. 1887, c. 51, s. 9; 57 V. c. 23, s. 9.

Appointment of place of office of Division Court Clerk.

Sittings in Toronto.

10.—(1) In each of the Courts of the two divisions of the City of Toronto known as the First and the Tenth Division Courts of the County of York, at least weekly sittings shall be held, except during the month of August, for the trial of causes; and in each of the said two Division Courts at least monthly sittings for the hearing of judgment summonses; and also sittings at least every two months for the trial of cases where juries have been demanded.

(2) The Judges of the County Court of the County of York, or any two of them, of whom the Senior Judge shall be one, may appoint additional sittings for any of the above purposes, and the Lieutenant-Governor in Council also shall have authority to appoint other sittings for any of the said purposes. 54 V. c. 15, s. 3.

11.—(1) The municipality in which a Division Court is held shall furnish a Court room and other necessary accommodation for holding said Court, not in connection with an hotel. Division Courts accommodation.

(2) In case a proper Court room and other necessary accommodation for the holding of the Division Court are not furnished by the municipality in which the Court is held, the Judge may hold the Court in any suitable place in the division, or in any other division of the County in which suitable accommodation is provided; and the owner, lessee or tenant of the building in which the Court is so held, shall for the use of the building be entitled to receive from the municipality whose duty it was to provide proper accommodation for the Court, the sum of \$5 for every day on which the Court is held in the building. If there be no proper Court room, etc., the Judge may hold Court in any suitable place. Expenses for rent.

(3) Where a municipality, not being a Town or City, furnishes a Court room and other necessary accommodation for a Division Court as aforesaid, or pays any owner, lessee or tenant for the use of any building, it shall be entitled to recover from any other municipality wholly or partly within the division for which such Court is held, such reasonable share of the cost of providing accommodation for holding the Court as shall in that behalf be decided and ordered by the Judge of the said Court, to be paid and contributed by the latter municipality, and in every such case the total cost of providing such accommodation for holding the Court shall be deemed to be \$5 for every day on which the Court is held. R. S. O. 1887, c. 51, s. 10. Judge to apportion cost in certain cases.

12. The sittings of the Division Court in a County Town may be held in the County Court House, and, in the cases of Cities and Towns separated from the County, the use of the Court House for such purpose may be taken into account in settling the proportion of the charges to be paid by the City or town for the maintenance of the Court House. R. S. O. 1887, c. 51, s. 11. Use of Court House.

13. If the Justices of the Peace for a county, in General Sessions assembled, certify to the Lieutenant-Governor that in any division of the county, from the amount of business, remoteness, or inaccessibility, it is expedient that the Court should not be held so often as once in every two months, the Lieutenant-Governor in Council may order the Court to be held at such periods as to him seems meet, and may revoke the The Lieutenant-Governor may, in certain cases, regulate holding of Courts.

Order at pleasure, but a Court shall be held in the division at least once in every six months, R. S. O. 1887, c. 51, s. 12.

Clerks of the Peace to record time and place for holding Courts.

14. The Clerk of the Peace, in a book to be kept by him, shall record the divisions declared and appointed, and the times and places of holding the Courts, and the alterations from time to time made therein, and he shall forthwith from time to time transmit to the Inspector of Division Courts a copy of the record. R. S. O. 1887, c. 51, s. 20; 55 V. c. 11, s. 3.

Alteration of number and limits of divisions.

15.—(1) The County Judge, the Sheriff, the Warden of the County and the Division Court Inspector may, subject to the restrictions in this Act contained, appoint, and from time to time alter the number, limits and extent of every division, and shall number the divisions, beginning at number one, but no resolution or order made under the provisions of this section shall be altered or rescinded, unless public notice of the intention so to alter or rescind, or that application will be made to alter or rescind is made and proclaimed in open Court at the next previous sittings of the General Sessions of the Peace.

(2) The Judge shall cause the Sheriff, Warden and Inspector to be notified of any application, and of the time and place at which the same will be considered. R. S. O. 1887, c. 51, s. 13.

Establishment by the County Judge of a Division Court in townships on petition of Township Council.

16.—(1) The Judge of a County Court may, in his discretion, upon the petition of any Municipal Council of any Township or United Townships, in which no Division Court has already been established, praying that a Division Court may be established in and for such Township or United Townships, establish and hold a Division Court therein, and the Court so established shall be numbered and called the Division Court of the County in which such Township or United Townships is or are situated, taking the number next after the highest number of the Courts then existing in such County.

Court must be confirmed by Lieutenant-Governor in Council.

(2) No business shall be transacted in such Court until after the establishment thereof has been certified by the County Judge to the Lieutenant-Governor in Council, together with the petition praying for the same, nor until after an Order has been passed by the Lieutenant-Governor in Council approving thereof. R. S. O. 1887, c. 51, s. 14.

On separation of junior from senior county, Courts to continue same till altered by Sessions.

17. Where a Junior County separates from a Senior County or Union of Counties, unless the Lieutenant-Governor otherwise by proclamation directs, the Division Courts of the United Counties which were before the separation wholly within the territorial limits of the Junior County, shall continue to be Division Courts of the Junior County, and all proceedings and judgments shall be had therein, and shall continue proceedings and judgments of the said Division Courts respectively, and all such Division Courts shall be known as Division Courts of such Junior County by the same numbers respectively as they

were before, until the Judge of the County, the Sheriff, the Warden of the County and the Inspector of Division Courts appoint the number, limits and extent of the divisions for Division Courts within the limits of such Junior County, as provided in section 15 of this Act. R. S. O. 1887, c. 51, s. 15. 55 V. c. 42, s. 49 (5) part. [*See also Cap. 223, Sec. 52 (5).*]

18. Where the Judge of the County, the Sheriff, the Warden of the County and the Inspector of Division Courts alter the number, limits or extent of the Division Courts within such county, all proceedings and judgments had in any Division Court before the day when such alteration takes effect shall be continued in such Division Court of the County as the Judge directs, and shall be considered proceedings and judgments of such Court. R. S. O. 1887, c. 51, s. 16.

On alteration of divisions, Judge to direct in what Court proceedings to be continued.

19. In case a Junior County is separated from a Union of Counties, or the proceedings of any of the Division Courts of a Senior County are transferred to another Division Court within the County upon the order of the Judge, the Clerks or other officers of such Division Courts who hold any writs or documents appertaining to such Courts or the business thereof, shall deliver up the same to such persons as the Judge directs, and any person refusing to deliver up the same shall be liable to be proceeded against in the same manner as persons wrongfully holding papers and documents under the provisions of section 52 of this Act. R. S. O. 1887, c. 51, s. 17.

Clerks and officers to deliver papers to such persons as Judge directs.

20. If after the separation of a Junior County from a Union of Counties, the territorial limits of any of the Division Courts of the former union are partly within the Junior and partly within the Senior County, all proceedings commenced in such Division Courts of the former union shall be continued to completion in the Court where the proceedings were originally commenced, or in such other Division Court of the Senior County as the Judge thereof directs; and the clerks and other officers of the said Division Courts of such Senior County in possession of any writs or documents appertaining to any such Court or to the business thereof, shall deliver over the same to the Clerk of such Division Court of such County as the Judge thereof directs. R. S. O. 1887, c. 51, s. 18.

After separation of junior from senior county, proceedings in certain cases to be continued in senior county.

21. Unless the Lieutenant-Governor by proclamation fixes the number, limits and extent of the Division Courts for the Junior County, the Judge of the County, the Sheriff, the Warden of the County and the Inspector of Division Courts, at a meeting to be called for the purpose, or at any adjourned meeting, shall, within three months after the issuing of a proclamation for separating a Junior from a Senior County, appoint the number (not less than three, nor more than twelve), the limits and extent of the several divisions within such

Regulation of limits on separation of a county.

County and the time when such change of divisions shall take place, and no resolution or order made under the provisions of this section shall be altered or rescinded, unless public notice of the intention so to alter or rescind is made and proclaimed in open Court at the next previous sittings of the General Sessions of the Peace. R. S. O. 1887, c. 51, s. 19.

THE JUDGE

County Court Judges to preside. **22.**—(1) The Division Courts shall be presided over by the County Court Judges or Junior or Deputy Judges in their respective counties.

Junior Judge to hold Division Courts. (2) The Junior Judge for the county shall (subject to any other arrangements from time to time made with the Senior Judge or made by the Judges of a County Court District which includes such County) preside over the Division Courts of the county.

Senior Judge to hold Division Courts when expedient. (3) The appointment of a Junior Judge shall not prevent or excuse the Judge of the County Court from presiding at any of the Division Courts within his County when the public interests require it. R. S. O. 1887, c. 51, s. 21.

Who to preside in case of illness or absence of Judge. **23.** In case of the illness or absence of the Judge, a Judge of the County Court of any other County may hold the Court, or the first mentioned Judge may appoint some Barrister of the Bar of Ontario to act as his deputy; and the Judge of such other County or the Barrister so appointed shall, as Judge of the Division Court, during the time of his appointment, have all the powers and privileges, and be subject to all the duties vested in or imposed by law on the Judge by whom he has been appointed. R. S. O. 1887, c. 51, s. 22.

Lieutenant-Governor to be notified of appointment of Deputy. **24.** The County Judge so appointing or the Barrister so appointed deputy shall forthwith send to the Lieutenant-Governor notice of the appointment, specifying the name, residence and profession of the Deputy Judge, and the cause of his appointment. R. S. O. 1887, c. 51, s. 23.

Duration of appointment. **25.** No such appointment shall be continued for more than one month without a renewal of the like notice; and in case the Lieutenant-Governor disapproves of the appointment, he may annul the same. R. S. O. 1887, c. 51, s. 24.

Adjournment of Court if Judge does not arrive in time. **26.** In case the Judge or the acting Judge, from illness or any casualty does not arrive in time or is not able to open a Division Court on the day appointed for that purpose, the Clerk or Deputy Clerk of the Court shall after eight o'clock in the afternoon, by proclamation, adjourn the Court to an earlier hour on the following day, and so from day to day, adjourning over any Sunday or legal holiday, until the Judge or acting

Judge arrives to open the Court, or until he receives other directions from the Judge or acting Judge. R. S. O. 1887, c. 51, s. 25.

CLERKS AND BAILIFFS, ETC.

27. For every Division Court there shall be a clerk and a Bailiff or Bailiffs, who shall be British subjects, and shall respectively perform the duties of their office as regulated by Act of the Legislature and by rules or orders made by the Board of County Judges. R. S. O. 1887, c. 51, s. 26.

Every Court to have clerk and bailiffs.

28. The Lieutenant-Governor may appoint, during pleasure the Clerk and Bailiff or Bailiffs of any Division Court. R. S. O. 1887, c. 51, s. 27.

Appointment of clerks and bailiffs.

29. No Clerk of a Division Court shall practise as a Barrister or Solicitor. R. S. O. 1887, c. 51, s. 28.

Clerk not to practise as barrister, etc.

30. The Judge of the County Court may at pleasure suspend or remove any Clerk or Bailiff within his own County heretofore appointed by a Judge. R. S. O. 1887, c. 51, s. 29.

Removal of clerk or bailiff by Judge.

31. The Lieutenant-Governor may, upon the report of the Inspector or of the County Court Judge, dismiss from office for misconduct or incompetency, any Clerk or Bailiff heretofore appointed. R. S. O. 1887, c. 51, s. 30.

Dismissal of clerks and bailiffs.

32.—(1) Nothing in this Act contained shall relieve the County Judge from the responsibility of seeing that the officers of his Court perform their duties, or from examining into complaints which may be made against them, or from the duties imposed upon him in reference to the security to be given by Clerks and Bailiffs, and such last mentioned duties are declared and shall be held to be of a judicial and not of an administrative character.

Duty of County Court Judges.

(2) The Judge may for any cause suspend any Clerk or Bailiff appointed by the Lieutenant-Governor, and in case of such suspension by him, he shall forthwith report the same and the cause thereof to the Provincial Secretary; and in case a vacancy shall occur in the office of Clerk or Bailiff within his County, the Judge shall forthwith notify the Provincial Secretary thereof. R. S. O. 1887, c. 51, s. 31.

Suspension of clerk or bailiff by Judge.

33. Leave of absence may be granted by the Inspector of Division Courts to any Clerk or Bailiff for a period not exceeding two months. In the event of leave of absence being so granted to any Clerk, he may from time to time, with the approval of the Inspector, appoint a deputy to act for him with all the powers and privileges, and subject to like duties. He may remove such deputy at his pleasure, and the Clerk

Inspector may grant leave of absence to clerks or bailiffs.

and his sureties shall be jointly and severally responsible for all the acts and omissions of the deputy. R. S. O. 1887, c. 51, s. 32.

When Clerk may appoint deputy.

34. The Clerk may (with the approval of the Judge), from time to time, when prevented from acting, by illness or other unavoidable accident, appoint a deputy to act for him, with all the powers and privileges and subject to like duties, and may remove such deputy at his pleasure, and the Clerk and his sureties shall be jointly and severally responsible for all the acts and omissions of the deputy. R. S. O. 1887, c. 51, s. 33.

Appointment of deputy by bailiff.

35. Where a Bailiff is temporarily unable to perform the duties of his office from illness, leave of absence or other temporary disability, he may from time to time, with the approval of the Inspector of Division Courts, appoint a deputy to act for him, with all the powers and privileges and subject to like duties, and may remove such deputy at his pleasure, and the Bailiff and his sureties shall be jointly and severally responsible for all the acts and omissions of the deputy. No such appointment shall have force for a longer period than two months. R. S. O. 1887, c. 51, s. 34.

Clerks and bailiffs to give security. Rev. Stat. c. 16.

36. Subject to the provisions of section 24 of *The Act Respecting Public Officers*, every Clerk and Bailiff of a Division Court shall give security, by a covenant according to the form in Schedule A to this Act, or in words to the same effect, with so many sureties, being freeholders and residents within the County, and in such sums as the County Judge directs, and, under his hand, approves and declares sufficient. Provided always that the Lieutenant-Governor in Council may increase or diminish the sum or sums for which, any Clerk or Bailiff heretofore, or who may hereafter be appointed, shall be required to give security as aforesaid. R. S. O. 1887, c. 51, s. 35; 60 V. c. 14, s. 3.

Before clerk or bailiff enters on his duties, covenant to be filed with Clerk of the Peace.

37.—(1) Before a Clerk or Bailiff enters upon the duties of his office, the covenant of himself and sureties, approved as aforesaid, shall be filed in the office of the Clerk of the Peace in the County in which the Division Court is situate; and for filing and granting a certificate thereof, the Clerk of the Peace may demand from the Clerk or Bailiff the sum of \$1. R. S. O. 1887, c. 51, s. 36.

Renewal of clerks' and bailiffs' covenants.

(2) In the case of any such covenant requiring periodical renewal to keep it alive and in force, the renewal receipt granted for that purpose, shall be filed with the Clerk of the Peace in whose office the covenant has been filed, and shall be attached to the covenant to which it refers. The Clerk of the Peace, for receiving and filing the said receipt, shall be entitled to receive from the Clerk or Bailiff, the sum of fifty cents. 57 V. c. 23, s. 1.

38. The covenant shall be available to, and may be sued upon in any Court of competent jurisdiction by, any person suffering damages by the default, breach of duty or misconduct of the Clerk or Bailiff. R. S. O. 1887, c. 51, s. 37.

Covenant to be available to suitors, etc.

39. A copy of the covenant, certified by the Clerk of the Peace, shall be received in all Courts as sufficient evidence of the due execution, and of the contents thereof, without further proof. R. S. O. 1887, c. 51, s. 38.

Certified copy of covenant to be received as evidence.

40.—(1) In an action, or proceeding against any person as the surety of a Clerk or Bailiff, the entries in the books required by law to be kept or which were so kept by such Clerk or Bailiff shall be *prima facie* evidence against the surety.

Entries of clerk or bailiff evidence against surety.

(2) For the purposes of this section the words "Clerk or Bailiff" shall be held to include a person who having been a Clerk or Bailiff has ceased to be such Clerk or Bailiff. R. S. O. 1887, c. 51, s. 39.

41. If a surety in such covenant dies, becomes resident out of Ontario, or insolvent, the County Judge shall notify the Clerk or Bailiff for whom such person became surety, of such death, departure or insolvency, and the Clerk or Bailiff shall within one month after being so notified, give anew the like security, and in the same manner as hereinbefore provided, or forfeit his office of Clerk or Bailiff. R. S. O. 1887, c. 51, s. 40.

If surety dies, etc., a new surety to be furnished.

42.—(1) Any surety for a Clerk or Bailiff who intends to withdraw from his responsibility may give notice in writing of his intention to the Clerk or Bailiff, as the case may be, and to the Judge of the County Court, which notice may be served personally or left with some grown up person at the office or place of residence of the person to whom it is addressed, or may be deposited in Her Majesty's post office prepaid and registered and addressed to such person at his usual post office address.

Procedure where sureties of clerk or bailiff discontinue suretyship.

(2) In such case the Judge shall forthwith on receipt thereof duly notify such Clerk or Bailiff, and the Clerk or Bailiff shall under penalty of forfeiture of his office (in addition to the suspension hereinafter mentioned) furnish the security of a new surety in lieu of the surety so giving notice, and shall have the necessary new bond or covenant approved by the Judge and completed within one month after such notices have been so given to him and to the said Judge.

(3) If such bond or covenant shall not be so approved and completed within such month, the said Judge shall forthwith suspend such Clerk or Bailiff and report such suspension and the cause thereof to the Provincial Secretary and the Inspector of Division Courts, and all accruing responsibility on the

part of the person giving such notice shall cease from and after the expiration of five weeks from the day on which such notices were so given, or the later of such notices if the same were not given on the same day. 55 V. c. 11, s. 2.

(4) Nothing herein contained shall discharge or exonerate any of the parties to such former bond or covenant from their liability on account of any matter done or omitted prior to the completion and approval of the new security or the expiration of the said five weeks. R. S. O. 1887, c. 51, s. 43; 60 V. c. 3, s. 3.

Sects. 15-20 of
Rev. Stat. c.
16 to apply to
securities
given by
Clerks and
Bailiffs.

43. Sections 15 to 20, both inclusive, of *The Act respecting Public Officers*, shall, with the substitution of "The Judge of the Court" for "The Lieutenant-Governor," apply to securities given by a Clerk or Bailiff of a Division Court. R. S. O. 1887, c. 51, s. 42.

[See also Chap. 16, secs. 24-27, as to acceptance of policies of Guarantee Companies.]

Clerk's Duties.

Clerk to issue
summonses
and furnish
copies, etc.

44. The Clerk shall issue all summonses, which summonses shall be by him filled up and shall be without blanks either in date or otherwise at the time of delivery for service; he shall also furnish copies of the same with the notice thereon, according to the form prescribed by the general rules or orders from time to time in force relating to Division Courts. R. S. O. 1887, c. 51, s. 44.

Clerk to keep
a record of
writs and
judgments.

45. The Clerk shall cause a note of all summonses, all notices filed by any party to the action, orders, judgments, executions and returns thereto, to be from time to time fairly entered in a book to be kept in his office; and shall sign his name on every page of the book; and the signed entries, or a copy thereof certified as a true copy by the Clerk, shall be admitted in all Courts and places as evidence of such entries and of the proceedings referred to thereby, without further proof. R. S. O. 1887, c. 51, s. 45.

Books to be
kept by
Clerks.

46. The Procedure Book, and Foreign Procedure Book, to be kept by the Clerk, may be in the respective forms contained in Schedules B and C to this Act. 57 V. c. 23, s. 10.

Clerks to issue
executions, tax
costs and keep
account of
fines, etc.

47. The Clerk shall also issue all warrants and writs of execution filled up and without blanks; he shall tax costs, subject to the revision of the Judge, register all orders and judgments of the Court, and keep an account of all fines payable or paid into Court, and of all suitors' moneys paid into and out of Court, and shall enter an account of all such fines and moneys in a book to be kept by him for that purpose, which book shall be open to all persons desirous of searching the same, and shall at all times be accessible to the Judge and Inspector. R. S. O. 1887, c. 51, s. 46.

48. Where the fees and emoluments earned by the Clerk or the Bailiff of any Division Court are less than \$500 a year the cost of all books required by this Act to be kept by him shall be paid by the County. 52 V. c. 12, s. 1.

When county to provide books.

49. The Clerk of every Division Court shall from time to time, as often as required so to do by the County Crown Attorney of his county, and at least once in every three months, deliver to him, verified by the affidavit of the Clerk sworn before the Judge or a Justice of the Peace of the county, a full account in writing of all fines levied by the Court, accounting for and deducting the reasonable expenses of levying the same, and any allowance which the Judge may make out of such fine, in pursuance of the power hereinafter given. R. S. O. 1887, c. 51, s. 47.

Clerks to deliver to County Crown Attorney a verified account of fines.

50. The Clerk of every Division Court, when required by the Judge, shall, from time to time, furnish him with a full account in writing verified by the oath of the Clerk sworn before the Judge or a Justice of the Peace, of the moneys received into or paid out of the Court by any suitors or other parties under any orders, judgments or process of the Court, and of the balance in court belonging to any such suitors or parties. R. S. O. 1887, c. 51, s. 48.

Clerk to furnish Judge with a verified account of moneys paid in and out of Court.

51.—(1) The Clerk of every Division Court shall, annually in the month of January, make out a correct list of all sums of money belonging to suitors in the court, which have been paid into court and have remained unclaimed for six years before the last day of the month of December then last past, specifying the names of the parties for whom or on whose account the same were so paid.

Clerk annually to make list of suitors' money in Court for 6 years.

(2) A copy of such list shall be put up and remain at all times in the Clerk's office and, during court hours, in some conspicuous part of the Court House, or place where the Court is held. R. S. O. 1887, c. 51, s. 49.

Copy of list to be put up in court room and in Clerk's office.

[As to return of fees by Division Court Clerk, see Cap. 16, secs. 29, 30.]

Disposal of Books and Papers when Clerk changed.

52.—(1) All accounts, moneys, books, papers, and other matters in the possession of the Clerk or Bailiff by virtue of or appertaining to his office, shall, upon his resignation, removal or death, immediately become the property of the County Crown Attorney of the County in which the division is situate, who shall hold the same for the benefit of the public until the appointment of another Clerk or Bailiff, to whom he shall deliver over the same, but not until such Clerk or Bailiff and his sureties have executed and filed the covenant hereinbefore mentioned. R. S. O. 1887, c. 51, s. 50 (1); 60 V. c. 14, s. 4.

Upon resignation, removal or death of Clerk, County Crown Attorney to become possessed of papers.

Punishment of person wrongfully holding moneys, books or papers.

(2) No person shall wrongfully hold or get possession of such accounts, moneys, books, papers and matters aforesaid, or any of them; and upon the declaration in writing of the Judge presiding over the Division Court for the time being, or of the Inspector of Division Courts, that a person has obtained or holds such wrongful possession thereof, and upon the order of a Judge of the High Court, founded thereon, such person shall be arrested by the Sheriff of any County in which he is found, and shall by such Sheriff be committed to the Common Gaol of his County, there to remain without bail until the High Court, or a Judge thereof, is satisfied that such person has not and never had nor held any such matters or moneys, or that he has fully accounted for or delivered up the same to the County Crown Attorney, or until he be otherwise discharged by due course of law. R. S. O. 1887, c. 51, s. 50 (2); 57 V., c. 23, s. 2.

County Attorney to act as clerk when office of Clerk is vacant.

53. Upon the resignation, removal or death of the Clerk of a Division Court and until such time as his successor is appointed, the County Crown Attorney of the county in which the division is situate, shall perform all the duties, and shall have all the powers of a Clerk of a Division Court, and shall be, for the time being, and until the successor is appointed, the Clerk of such Division Court. 52 V., c. 12, s. 4.

Duties of Bailiffs.

Bailiffs to serve writs.

54. The Bailiffs shall serve and execute all summonses, orders, warrants, and writs delivered to them by the Clerk for service, whether Bailiffs of the court out of which the same issued or not, and shall so soon as served return the same to the Clerk of the Court of which they are respectively Bailiffs; but, subject to the provisions of section 85, they shall not be required to travel beyond the limits of their division, or be allowed to charge mileage for any distance travelled beyond the limits of the County in which the Court of which they are respectively Bailiffs is situated. R. S. O. 1887, c. 51, s. 51.

Bailiff to exercise duty of constable during holding of Court.

55. Every Bailiff shall exercise the authority of a constable during the actual holding of the Court of which he is a Bailiff, with full power to prevent breaches of the peace, riots or disturbances within the court-room or building in which the Court is held, or in the public streets, squares or other places within the hearing of the Court, and may, with or without warrant, arrest all parties offending against the meaning of this section, and forthwith bring the offenders before the nearest Justice of the Peace, or any other judicial officer having power to investigate the matter or adjudicate thereon. R. S. O. 1887, c. 51, s. 52.

Fees of Clerks and Bailiffs, etc.

56.—(1) The Clerks and Bailiffs shall be paid by fees, as provided and allowed by the general rules or orders applicable to Division Courts, heretofore in force or hereafter to be made by the Board of County Judges, and approved under the provisions of section 308 of this Act.

Clerks and bailiffs to be paid by fees.

(2) Until otherwise provided by the general rules or orders, the fees to be taken and received by Appraisers shall be as follows :—

Fees of appraisers.

To each Appraiser, during the time actually employed in appraising goods (to be paid in first instance by the plaintiff and allowed in costs of the cause) Fifty cents per day.

(3) A table of the fees shall be hung up in some conspicuous place in the offices of the several Clerks. R. S. O. 1887, c. 51, s. 53.

Table of fees to be hung up in clerk's office.

57.—(1) In any action brought in a Division Court, when the claim sought to be recovered does not exceed \$10, it shall not be necessary that the Clerk shall notify the plaintiff that no defence has been entered, nor shall the schedule or tariff of Clerk's or Bailiff's fees now in force, or that at any time hereafter may be in force apply to or be taxable in any such action, except the fees for mileage to a Bailiff, the fees for enforcing a warrant of attachment, warrant against the body or writ in replevin, and the fee allowed by item number 24 of the schedule of Clerk's fees, for receiving papers from another division for service, entering the same, handing the same to the Bailiff, and receiving and entering his return.

Cases where amount involved not more than \$10.

(2) Excepting such fees as are hereinbefore excepted, the fees taxable to and to be received by the several Clerks and Bailiffs of the Division Courts in any action in which the sum sought to be recovered does not exceed \$10, shall be, as follows :—

Fees of clerks and bailiffs.

- (a) To the Clerk, for all services rendered by him as such Clerk, from the time of entering the action or suing out a judgment or interpleader summons up to and including the entering of final judgment or final order on any such judgment or interpleader summons in case the action proceeds to judgment or final order..... \$1.25

In case the action does not proceed to judgment or final order the fees heretofore or that may hereafter be payable but not exceeding in the whole the said sum.

For issuing writ of execution, warrant of attachment or warrant for arrest of delinquent and entering the return thereto.... 50

(b) To the Bailiff, for all services rendered by him as such Bailiff, in serving the summons and making his return thereof to the Clerk of the Court, or any other service that may be necessary before judgment is entered by the Clerk or pronounced by the Judge, mileage excepted..... 40

For enforcing writ of execution, schedule of property seized or attached, bond where necessary, and all other necessary acts done by him after seizure, mileage excepted, if money made, or case settled after levy.... \$1.00

Necessary disbursements incurred in the care and removal of property shall be allowed, to be first allowed by the Clerk subject to the approval of the Judge. 57 V., c. 23, s. 11.

By whom fees to be paid in first instance.

58. The fees upon every proceeding shall, on or before such proceeding, be paid in the first instance by the plaintiff, or other party at whose instance the proceeding takes place. R. S. O. 1887, c. 51, s. 54.

How enforced

59. If the fees are not paid in the first instance by the plaintiff or party on whose behalf such proceeding is to be had, the payment thereof, may, by order of the Judge, be enforced by execution in like manner as a judgment of the Court, by such ways and means as any debt or damages ordered to be paid by the Court can be recovered. R. S. O. 1887, c. 51, s. 55.

Bailiff's fees to be paid to clerk when execution issues.

60. At the time of the issue of the execution, the Bailiff's fees thereon shall be paid to the Clerk, and shall by him be paid over to the Bailiff, upon the return of the execution, and not before, but if the Bailiff does not become entitled to any part, or becomes entitled to a part only, of such fees, the whole or the surplus shall, on demand be, by the Clerk, repaid to the plaintiff or party from whom the fees were received. R. S. O. 1887, c. 51, s. 56.

Bailiff to forfeit fees if he neglects to return writ.

61. If the Bailiff neglects to return any process or execution within the time required by law, he shall for each such neglect forfeit his fees thereon, and all fees so forfeited shall be held to have been received by the Clerk; who shall keep a special account thereof, and account for and pay over the same to the County Crown Attorney, to be paid by him over to the Provincial Treasurer, to form part of the Consolidated Revenue Fund. R. S. O. 1887, c. 51 s. 57.

62. No Clerk or Bailiff shall directly or indirectly take or receive any commission, charge, expenses, fee or reward for or in connection with the collection of any debt or claim which has been or may or can be sued in the Court for which he is so Clerk or Bailiff, except such fees as are provided by any tariff of fees under this Act. R. S. O. 1887, c. 51, s. 58.

Clerk or bailiff not to accept extra fees.

INSPECTOR.

63. The Lieutenant-Governor may from time to time, appoint an Inspector of Division Courts, who shall hold office during pleasure, and whose duty shall be :

Appointment of inspector. Duties.

1. To make a personal inspection of every Division Court and of the books and court papers belonging thereto ;

Inspection of offices.

2. To see that the proper books are provided, that they are in good order and condition, that the proper entries and records are made therein in a proper manner, at proper times, and in a proper form and order, and that the court papers and documents are properly classified and preserved ;

Books, etc.

3. To ascertain that the duties of the officers of the Division Courts are duly and efficiently performed and that the office is at all times duly attended to by the Clerk ;

Officers duties.

4. To see that lawful fees only are taxed or allowed as costs ;

Lawful fees.

5. When directed so to do by the Lieutenant-Governor, to ascertain that proper security has been given by any Clerk or Bailiff and that the sureties continue sufficient ;

Security by clerks and bailiffs.

6. To report upon all such matters as expeditiously as may be to the Lieutenant-Governor for his information and decision. R. S. O. 1887, c. 51, s. 61.

Report to Lieutenant-Governor.

64. When the Inspector considers it expedient to institute an inquiry into the conduct of a Division Court Clerk or Bailiff in relation to his official duties or acts, it shall be lawful for the Inspector to require the Clerk or Bailiff, or other person or persons, to give evidence on oath, and for this purpose the Inspector shall have the same power to summon such officers or other person or persons to attend as witnesses, to enforce their attendance and to compel them to produce books and documents, and to give evidence as any Court has in civil cases. R. S. O. 1887, c. 51, s. 62.

Power of Inspector in making inquiry into conduct of officers.

65. The Division Court Clerks and Bailiffs shall, as often as required by the Inspector, produce all books and documents required to be kept by them, or that may hereafter be required to be kept by them, at the Clerk's office, for examination and inspection : every Clerk or Bailiff shall report to the Inspector such matters relating to any cause or proceeding as the Inspector shall require. R. S. O. 1887, c. 51, s. 63.

Books, etc., to be produced for inspection.

Officers to inform Inspector of their appointment, etc.

66. It shall be the duty of every Division Court Clerk or Bailiff, within five days after his appointment to office, to inform the Inspector of his appointment, his full name and post office address, the names of his sureties, their respective callings or professions, places of residence, and post office address. R. S. O. 1887, c. 51, s. 64.

Inspectors to be informed of new sureties.

67. When a Clerk or Bailiff has given new sureties, as required by this Act, he shall immediately inform the Inspector of such change, giving the names of the sureties, their respective callings or professions, places of residence, and post office address. R. S. O. 1887, c. 51, s. 65.

Officers to produce certificate of filing covenant, etc.

68. Every Division Court Clerk and Bailiff shall have and keep in his possession or custody the certificate of the Clerk of the Peace named in section 37 of this Act, and shall produce the same for the information of the Inspector when required so to do. R. S. O. 1887, c. 51, s. 66.

Returns.

69. Every Clerk shall, on or before the 15th day of January in each year, make a return of the business of his office for the year ending the 31st day of December preceding, in such form and manner as the Lieutenant-Governor shall direct. R. S. O. 1887, c. 51, s. 67.

Clerks to make returns to Inspector.

70. Every Clerk and Bailiff shall keep a separate book in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, and shall on the 15th day of January, in every year, make up to and including the 31st day of December of the previous year, a return to the Inspector, under oath, shewing the aggregate amount of fees, charges and emoluments so received by him and which he has become entitled to receive, and has not received, during the year. R. S. O. 1887, c. 51, s. 68.

JURISDICTION.

Cases in which court has no jurisdiction.

71. The Division Courts shall not have jurisdiction in any of the following cases:

1. Actions for any gambling debt;
2. Actions for spirituous or malt liquors drunk in a tavern or alehouse;
3. Actions on notes of hand given wholly or partly in consideration of a gambling debt or for such liquors;
4. Actions for the recovery of land or actions in which the right or title to any corporeal or incorporeal hereditaments, or any toll, custom or franchise comes in question;
5. Actions in which the validity of any devise, bequest or limitation under any will or settlement is disputed;

6. Actions for malicious prosecution, libel, slander, criminal conversation, seduction or breach of promise of marriage ;

7. Actions against a Justice of the Peace for anything done by him in the execution of his office, if he objects to such jurisdiction. R. S. O. 1887, c. 51, s. 69.

72.—(1) The Division Courts shall have jurisdiction in the following cases : Cases in which the court has jurisdiction.

(a) All personal actions where the amount claimed does not exceed \$60. R. S. O. 1887, c. 51, s. 70 (1a).

(b) In any personal action if all the parties consent thereto in writing, and the amount claimed does not exceed \$100. 56 V. c. 15, s. 1.

(c) All claims and demands of debt, account or breach of contract, or covenant, or money demand, whether payable in money or otherwise, where the amount or balance claimed does not exceed \$100. R. S. O. 1887, c. 51, s. 70 (1b).

(d) All claims for the recovery of a debt or money demand the amount or balance of which does not exceed \$200, where the amount or original amount of the claim is ascertained by the signature of the defendant or of the person whom, as executor or administrator, the defendant represents. Interest accumulated upon any claim of this class, since the amount or balance was so ascertained by the signature of the defendant or of the person whom he represents shall not be included in determining the question of jurisdiction, but interest so accumulated may be recovered in a Division Court in addition to the claim notwithstanding the interest and the amount of the claim so ascertained together exceed the sum of \$200. R. S. O. 1887, c. 51, s. 70 (1c); 56 V. c. 15, s. 2. Accumulated interest on ascertained claims.

(2) In the class of cases provided for by clause (d) of subsection 1 of this section, the additional jurisdiction thereby conferred shall apply to claims and proceedings against absconding debtors under section 257, and subsequent sections of this Act ; and in such cases the attachment may issue and proceedings may be had on a claim of not less than \$4 and not more than \$200. Absconding debtors.

(3) Claims combining :

(a) A cause or causes of action in respect of which the jurisdiction of the Division Courts, is by the foregoing subsections of this section, limited to \$60, which causes of action are hereinafter designated as class (a), Combining causes of action.

(b) A cause or causes of action in respect of which the jurisdiction of the said Courts is by the said subsections limited to \$100, which causes of action are hereinafter designated as class (b),

(c) A cause or causes of action in respect of which the jurisdiction of the said Courts is by the said subsections limited to \$200, which causes of action are hereinafter designated as class (c),

may be tried and disposed of in one action, and the said Courts shall have jurisdiction so to try the same; Provided that the whole amount claimed in any such action in respect of class (a), shall not exceed \$60; and that the whole amount claimed in any action in respect of classes (a) and (b) combined, or in respect of class (b) where no claim is made in respect of class (a), shall not exceed \$100, and that the whole amount claimed in respect of classes (a) and (c) or (b) and (c) combined, shall not exceed \$200, and that in respect of classes (b) and (c) combined, the whole amount claimed in respect of class (b) shall not exceed \$100.

(4) The finding of the Court upon the claims when so joined as aforesaid shall be separate. R. S. O. 1887, c. 51, s. 70 (2) (3) (4).

Jurisdiction in
replevin.

Rev. Stat. c.
66.

(5) The Division Courts shall also have jurisdiction in all actions of replevin, where the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$60, as provided in *The Replevin Act*. R. S. O. 1887, c. 51, s. 72.

Judge to try.

73. Except in cases in which a Jury is legally demanded by a party as hereinafter provided, the Judge shall hear and determine in a summary way all questions of law and fact and may make such orders or judgments as appear to him just and agreeable to equity and good conscience, which shall be final and conclusive between the parties, except as herein otherwise provided. R. S. O. 1887, c. 51, s. 70 (1) part.

Judge may
order payment
in money,
although con-
tract not for
payment in
money.

74. Upon any contract for the payment of a sum certain in labour or in any kind of goods or commodities or in any other manner than in money, the Judge, after the day has passed on which the goods or commodities ought to have been delivered or the labour or other thing performed, may give judgment for the amount in money as if the contract had been originally so expressed. R. S. O. 1887, c. 51, s. 71.

Powers of
courts.

75. Every Division Court shall as regards all causes of action within its jurisdiction for the time being, have power to grant and shall grant in any proceeding before such Court such relief, redress, or remedy, or combination of remedies, either absolute or conditional, including the power to relieve against penalties and forfeitures, and shall in every such proceeding

give such and the like effect to every ground of defence or counter-claim, equitable or legal (subject to the provision next hereinafter contained), in as full and ample a manner as might and ought to be done in the like case by the High Court. R. S. O. 1887, c. 51, s. 73; 60 V. c. 3, s. 3; c. 15, Sched. A (64).

76. Where in any proceeding before a Division Court any defence or counter-claim of the defendant involves matter beyond the jurisdiction of the Court, such defence or counter-claim shall not affect the competence or the duty of the Court to dispose of the whole matter in controversy so far as relates to the demand of the plaintiff and the defence thereto, but no relief exceeding that which the Court has jurisdiction to administer shall be given to the defendant upon any such counter-claim. R. S. O. 1887, c. 51, s. 74.

[As to removal into High Court, see Cap. 51, sec. 186.]

77. No privilege shall be allowed to any person to exempt him from suing and being sued in a Division Court; and any executor or administrator may sue or be sued therein; and the judgment and execution shall be such as in like cases would be given or issued in the High Court. R. S. O. 1887, c. 51, s. 75.

78. A minor may sue in a Division Court for any sum not exceeding \$100 due to him for wages, in the same manner as if he were of full age. R. S. O. 1887, c. 51, s. 76.

79.—(1) A cause of action shall not be divided into two or more actions for the purpose of bringing the same within the jurisdiction of a Division Court, and no greater sum than \$100 shall be recovered in any action for the balance of an unsettled account, nor shall any action for any such balance be sustained where the unsettled account in the whole exceeds \$400. R. S. O. 1887, c. 51, s. 77.

(2) Where a sum for principal and also a sum for interest thereon is due and payable to the same person upon a mortgage, bill, note, bond or other instrument, he may notwithstanding anything in this section contained, but subject to the other provisions of this Act, sue separately for every sum so due. 60 V. c. 14, s. 5.

80. A judgment of a Division Court upon an action brought for the balance of an account shall be a full discharge of all demands in respect of the account for the balance of which such action was brought, and the entry of judgment shall be made accordingly. R. S. O. 1887, c. 51, s. 78.

81. When it appears at any stage of an action otherwise of the proper competency of the Division Court that such Court has not cognizance thereof on account of the title to land or any corporeal or incorporeal hereditament, or any toll,

custom or franchise coming in question, or the validity of any devise, bequest or limitation under a will or settlement being disputed, the action shall not on that account be dismissed, but a Judge of the High Court, or a Judge of the Division Court, in which the action is pending, may order the same to be transferred to the High Court upon such terms as to the payment of costs or otherwise as the Judge making the order thinks fit, and thereafter the action shall proceed in the High Court as if originally commenced therein, and as if the defendant had entered an appearance; or the Judge making the order may give any directions as to procedure which he deems proper. 60 V. c. 14, s. 14.

Causes may be removed by *certiorari* in certain cases.

82. In case the debt or damages claimed in an action brought in a Division Court amounts to \$40 and upwards, and in case it appears to any of the Judges of the High Court that the case is a fit one to be tried in the High Court, and in case a Judge thereof grants leave for that purpose, the action may by order of *certiorari* be removed from the Division Court into the High Court upon such terms as to payment of costs or other terms as the Judge making the order thinks fit. R. S. O., 1887, c. 51, s. 79.

PROCESS AND PROCEDURE.

Court where action may be tried to have full power.

83. When it is by this Act provided that a claim may be entered, or an action brought, or that any person or persons may be sued in a Division Court or that an action may be transferred to any other court, such court shall have jurisdiction in the premises, and all proceedings may be had and taken both before and after judgment in or relating to such claim or cause as may now be had and taken, in or relating to any claim or cause which has been lawfully entered in the Court holden for the division in which the cause of action arose, or in which the defendant or any one of several defendants resided or carried on business at the time the action was brought. R.S.O. 1887, c. 51, s. 80.

Division in which action to be entered.

In what Court actions may be entered and tried.

84. Any action cognizable in a Division Court may be entered and tried in the court holden for the division in which the cause of action arose or in which the defendant or any one of several defendants resides or carries on a business at the time the action is brought, notwithstanding that the defendant at such time resides in a County or division different from the one in which the cause of action arose. R.S.O. 1887, c. 51, s. 81.

Actions may be brought and tried in the court nearest to the defendant's residence.

85.—(1) Such action may be entered and tried and determined in the Court the place of sitting whereof is the nearest to the residence of the defendant and the action may be entered, tried and determined irrespective of the place where

the cause of action arose, and notwithstanding that the defendant at the time resides in a county or division other than the county or division in which the Division Court is situate, and the action entered. R. S. O. 1887, c. 51, s. 82 (1).

(2) It shall be sufficient if the summons in such case be served by a Bailiff of the Court out of which it issues, in the manner provided in section 100 of this Act; and upon judgment recovered in any such action a writ of *fiery facias* against the goods and chattels of the defendant, and all other writs, process and proceedings to enforce the payment of the judgment, may be issued to the Bailiff of the Court, and be executed and enforced by him in the County in which the defendant resides, as well as in the County in which the judgment was recovered. R.S.O. 1887, c. 51, s. 82 (2)

Service of summons in such cases.

Execution.

86. In case a person desires to bring an action in a division other than as in the next preceding two sections mentioned, a County Judge may by special order authorize an action to be entered and tried in the Court of any division in his county adjacent to the division in which the defendant or one of several defendants resides, whether such defendant resides in the County of the Judge granting the order or in an adjoining County. R.S.O. 1887, c. 51, s. 83.

When actions may be brought in other than the regular divisions.

87.—(1) When it is by this Act provided that a claim may be entered, or an action brought, or that any person or persons may be sued in a Division Court, such action may be brought, notwithstanding that the residence of the defendant is, at the time of bringing the action, out of the Province of Ontario, and such action may be brought in the Division Court of the division in which the cause of action arose or partly arose, and continued to completion in as full and effectual a manner as might have been the case if the defendant resided in the Province. 57 V. c. 23, s. 12; 60 V. c. 14, s. 12.

Actions when defendant resides out of the Province.

(2) The service of the summons in any such case may be made by a Bailiff of the Court out of which it is issued, or by some competent person, who may, either before or after the service, be approved by the Judge or the Clerk of the Court for that purpose, but such summons shall be served at least fifteen days before the return day thereof. 57 V. c. 23, s. 13.

Service of summons on non-residents.

(3) The necessary affidavit of service, if not made before a Division Court Clerk, or a Commissioner for taking affidavits in the Province, may be sworn before any Notary Public in the country in which such service has been made, and such affidavit shall be held to be as effectual as if made by a Bailiff of the Court, before the Clerk. 57 V. c. 23, s. 14.

Proof of service.

(4) In any case in which service of the summons on the defendant has been effected out of Ontario, the Judge may upon application to him, allow, as costs in the cause, a sum of money

Allowance for service out of Ontario.

towards the expenses incurred in effecting such service, but such allowance shall not in any case exceed in the whole five dollars. 60 V. c. 14, s. 13.

Where defendant is a corporation the head office of which is not in Province.

88. In every case where the defendant is a corporation not having its head office in the Province and the cause of action arose partly in one division and partly in another, the plaintiff may bring his action in either division. R. S. O. 1887, c. 51, s. 84.

Where money made payable out of the Province.

89. Where the debt or money payable exceeds \$100, and is by the contract of the parties made payable at a place out of the Province of Ontario, the action may be brought thereon in any Division Court, subject, however, to the place of trial being changed upon the application of one or more of the defendants as provided by the next succeeding section. R. S. O. 1887, c. 51, s. 85.

Place of trial where amount sued for exceeds \$100 : changing place of trial in such cases.

90.—(1) Where the debt or money payable exceeds \$100, and is made payable by the contract of the parties at any place named therein, the action may be brought thereon in the Court holden for the division in which the place of payment is situate, subject, however, to the place of trial being changed to another division in which the Court holden therein has jurisdiction in the particular case.

(2) To procure such change an order to that effect shall be obtained by the defendant from the Judge of the County in which the action is brought.

(3) The application for the order shall be made within eight days from the day on which the defendant who makes the application was served with the summons, where the service is required to be ten days before the return; or within twelve days after the day of such service, where the service is required to be fifteen days or more before the return.

(4) The application shall be on affidavit that the applicant intends to defend the action, that he has a good defence upon the merits, that the cause of action did not wholly arise in the division in which the action is brought, and that the witnesses for the defence, or some of them, reside within the division in which the defendants, or one of them, resided or carried on business at the time the action was brought, and that the application is not made for the purpose of delay; the date of the next two sittings of the Court to which it is sought to have the cause transferred shall also be shewn.

(5) The affidavit shall be made by a defendant, or in case satisfactory reasons are shewn for the same not being made by a defendant, then by the solicitor or agent of a defendant.

(6) The order shall direct at what sittings of the Court the action shall be tried, subject to all rights of postponement as

in other cases, and shall be attached to the summons and other proceedings in the action by the Clerk, who shall forthwith transmit the same to the Clerk of the Court in which the action is by such order directed to be tried, and enter a minute thereof in his procedure book.

(7) Upon receipt of the order and other papers by the Clerk of such last mentioned Court, he shall enter the action and proceedings in his procedure book.

(8) All the papers and proceedings in the cause thereafter shall be entitled and had and carried on as though the action had originally been entered in the said last mentioned Court.

(9) It shall be the duty of the defendant obtaining the order forthwith to serve, or cause to be served, a copy of the same upon the plaintiff or his agent in the same manner as summonses are required to be served under this Act. R. S. O. 1887, c. 51, s. 86.

[*As to actions on insurance premium notes and assessments, see Cap. 203, Sec. 138.*]

91.—(1) If an action shall be entered in a Division Court which should have been entered in some other Division Court of the same or some other County, the cause shall not abate as for want of jurisdiction, but on such terms as the Judge shall order, all the papers and proceedings in the cause may be transferred to any Division Court having jurisdiction in the premises, and shall become proceedings thereof as if the cause had been at first properly entered therein, and the same shall be continued and carried on to the conclusion thereof as though the action had originally been entered in the said last mentioned court; but the party making the application shall satisfy the Judge by affidavit of the alleged want of jurisdiction of the said Court. R. S. O. 1887, c. 51, s. 87; 52 V. c. 12, s. 5, part.

When action entered in wrong court.

(2) The Clerk of the Court to which proceedings have been transferred, shall place the action on the list for trial at the next sittings of his Court, if he receives the papers in the cause six clear days or more before the date of the said sittings, but if not, then he shall place it on the list for trial at the sittings next thereafter; and he shall forthwith, after receiving the said papers, notify the parties or their agents by mailing them registered notices informing them of the date, hour and place of the said sittings, and the Clerk of the Court issuing the summons shall certify in detail to the Court to which the case is transferred all the costs incurred in the action up to the date of such transfer. 52 V. c. 12, s. 5, part.

92.—(1) Every Clerk or Bailiff may sue and be sued for any debt due to or by him, as the case may be, separately or jointly with another person in the Court of any next adjoining division in the same County, in the same manner, to all intents

Clerks and bailiffs may sue and be sued in adjoining divisions.

and purposes, as if the cause of action had arisen within such next adjoining division, or the defendant was resident therein, and no Clerk or Bailiff shall bring any action in the Division Court of which he is Clerk or Bailiff. R. S. O. 1887, c. 51, s. 88.

Actions by and against clerks and bailiffs commenced before appointment.

(2) Nothing in this section contained shall be taken to prevent any proceedings from being continued in the Court in which the action was brought, where such action was commenced before the appointment of such Clerk or Bailiff. 52 V. c. 12, s. 6.

Clerk or bailiff may be sued in court in adjoining county.

93. Notwithstanding anything in this Act contained, a Clerk or Bailiff of a Division Court may be sued in the court of an adjoining County, the place of sitting whereof is nearest to the residence of the defendant without the County in which he holds his office as Clerk or Bailiff; and upon a transcript of a judgment which may be recovered against any Clerk or Bailiff in such action being sent to and received by the Clerk of the Court of any division adjoining the division for which the defendant was or is Clerk or Bailiff in the County in which the last named division is situate, with a certificate of the amount due on such judgment, as provided by section 223 of this Act, such proceedings for enforcing and collecting the judgment by way of execution and otherwise may be had and taken in the Division Court to which the transcript has been so sent by the officers thereof as may be had or taken for the like purpose upon a judgment regularly recovered in any Division Court. R. S. O. 1887, c. 51, s. 89.

Action against County Judge or Stipendiary Magistrate.

94. Any action, by or against a Judge or Junior Judge of a County Court, which is within the competence of a Division Court, may be brought in a Division Court of any County adjoining that in which the Judge or Junior Judge resides; and any action by or against a Stipendiary Magistrate, if the same is within the jurisdiction of any Division Court of his District, may be brought in any Division Court of any adjoining County or District. R. S. O. 1887, c. 51, s. 90.

Trial may by consent be in any division.

95. Notwithstanding anything in this Act contained, any action within the jurisdiction of the Division Courts may be entered, tried and finally disposed of by the consent of all parties in any Division Court. R. S. O. 1887, c. 51, s. 91.

Forwarding summonses for service in other divisions.

96. The Clerk of any Division Court shall, when required, forward all summonses to the Clerk of any other Division Court for service, and the Clerk of any Division Court shall receive any summonses sent to him by any other Division Court Clerk for service, and he shall hand the same to the Bailiff for service, and when returned shall receive the same from the Bailiff and return them to the Clerk from whom he received them, and every Clerk shall enter all such proceedings in a book to be kept by him for that purpose. R. S. O. 1887, c. 51, s. 92.

97. In all cases not already provided for, where, in any action or proceeding in a Division Court, it is necessary for any party thereto to give notice to any other party thereto or to the Clerk of the Court, such notice shall be in writing. Notices to be in writing.
R. S. O. 1887, c. 51, s. 93.

Entry of Claim, Service. etc

98.—(1) The plaintiff shall enter with the Clerk a copy (and if necessary, copies) of his account, claim or demand in writing in detail (and in cases of tort, particulars of his demand) and each copy shall be numbered according to the order in which the copies are entered, and thereupon a summons shall be issued, bearing the number of the account, claim or demand on the margin thereof, and corresponding in substance with such form as may be prescribed by the General Rules or Orders relating to Division Courts from time to time in force, according to the nature of the account, claim or demand, and on the trial of the cause no evidence shall be given by the plaintiff of any cause of action except such as is contained in the account, claim or demand so entered. Entry of claim with clerk.

(2) In any action brought to recover a sum of money due on a promissory note, the note shall be filed with the Clerk before judgment, unless otherwise ordered, or unless the loss of the note be shewn, or that it cannot for some other satisfactory reason be produced. Promissory note to be filed before judgment.
R. S. O. 1887, c. 51, s. 94.

99. The plaintiff shall furnish the Clerk with the particulars of his claim or demand, and the Clerk shall annex the plaintiff's particulars to the summons, and he shall furnish copies thereof, to the proper person to serve the same. Plaintiff to furnish particulars of claim to the clerk for service.
R. S. O. 1887, c. 51, s. 95.

100. The summons, with a copy of the account or of the particulars of the claim or demand attached, shall be served ten days at least before the return day thereof. Summons to be served ten days before return day.
R. S. O. 1887, c. 51, s. 96.

101. In case any defendant resides outside of the County in which the action is brought the summons shall be served on every such defendant fifteen days at least before the return day thereof. When summons to be served if defendant resides out of county.
52 V. c. 12, s. 8 ; 60 V. c. 3, s. 3.

102. There shall be endorsed upon every summons a notice informing the defendant that in any case in which an order may be made changing the place of trial, application must be made to the Judge within eight days after the day of service thereof (where the service is required to be ten days before the return), or within twelve days after the day of such service (where the service is required to be fifteen days or more before the return). Endorsement upon summons.
R. S. O. 1887, c. 51, s. 98.

When service
to be personal
or otherwise.

103. In case the amount of the account, claim or demand exceeds \$15, the service shall be personal on the defendant, and in case the amount does not exceed \$15, the service may be on the defendant, his wife, or servant, or some grown person being an inmate of the defendant's dwelling-house, or usual place of abode, trading or dealing. R. S. O. 1887, c. 51, s. 99; 52 V. c. 12, s. 9.

General Provisions.

Substitutional
service.

104. Where it is made to appear to the Judge upon affidavit that reasonable efforts have been made to effect personal service of the summons upon the defendant, primary debtor or garnishee, and either that the summons has come to the knowledge of the defendant, primary debtor or garnishee, or that he wilfully evades service of the same, or has absconded, either before or after the issue of the summons, or is out of the Province of Ontario but has in Ontario an office and an agent doing business on his behalf, the Judge may, by order, grant leave to the plaintiff to serve the summons in such manner, at such place, or upon such person for the defendant, primary debtor or garnishee, as to him may seem proper, and may grant leave to the plaintiff to proceed as if personal service had been effected, subject to such conditions as the Judge may impose. R. S. O. 1887, c. 51, s. 100; 51 V. c. 10, s. 1; 52 V. c. 12, s. 10.

Service of process,
etc., on
corporations.

105.—(1) Every summons or process issued out of a Division Court against a corporation, firm or individual whose chief place of business is not within the Province, and all subsequent papers and proceedings in the action, or proceeding in which the summons or process has been issued, may be served on the agent of the corporation, firm or individual whose office or place of business as such agent is either within the division in which the summons or process issued, or is nearest thereto. R. S. O. 1887, c. 51, s. 101 (1); 52 V. c. 12, s. 11.

Interpretation
"Agent."

(2) For the purposes of this section the word "agent" shall be held to include,

(a) In the case of a railway company a station-master having charge of a station belonging to the railway company;

(b) In the case of a telegraph company, a person having charge of a telegraph office belonging to the telegraph company, and

(c) In the case of an express company, a person having charge of an express office belonging to the express company. R. S. O. 1887, c. 51, s. 101 (2).

Postage.

106. The postage on papers required to be served out of the division, and sent by mail for service, shall be costs in the cause. R. S. O. 1887, c. 51, s. 102.

107. Where there is no Bailiff of the Court in which the action is brought, or when the Bailiff has been suspended by order of the Judge, or where any summons, execution, subpoena, process or other document, is required to be served or executed elsewhere than in the division in which the action is brought, it may, in the election of the party, be directed to be served and executed by the Bailiff of the division in or near to which it is required to be executed, or by such other Bailiff or person as the Judge, or Clerk issuing the same, orders, and may, for that purpose, be transmitted by post, or otherwise, direct to such Bailiff or person, without being sent to or through the Clerk. R. S. O. 1887, c. 51, s. 103.

How process, etc., may be executed at distance or when bailiff suspended.

108. In cases mentioned in the last preceding section it shall be the duty of the Bailiff to serve and execute all summonses, executions, subpoenas, process and other documents, and make return thereof with reasonable diligence, and to pay over, on demand, all moneys by him levied or received thereon; and for neglect or default therein, in addition to any other remedy against the Bailiff, he and his sureties shall be liable, on their covenant to the parties aggrieved, as if the summonses, executions, subpoenas, process and documents had issued from or related to some action in the Court of which he is Bailiff. R.S.O. 1887, c. 51, s. 104.

Duties of bailiff and liability of sureties.

109. The Clerk shall prepare an affidavit of service of every summons issued out of his Court, or sent to him for service, stating how the same was served, the day of service, and the distance the bailiff necessarily travelled to effect service, and the affidavit shall be annexed to or indorsed on the summons; but the Judge may require the Bailiff to be sworn in his presence, and to answer such questions as may be put to him touching any service or mileage. R. S. O. 1887, c. 51, s. 105.

Clerk to prepare affidavits of service, etc.

Partners.

110. In case of a debt or demand against two or more persons, partners in trade or otherwise jointly liable, but residing in different divisions, or one or more of whom cannot be found, one or more of such persons may be served with process, and judgment may be obtained and execution issued against the person or persons served, notwithstanding others jointly liable have not been served or sued, reserving always to the person or persons against whom execution issues his or their right to demand contribution from any other person jointly liable with him. R. S. O. 1887, c. 51, s. 106.

One or more of persons jointly liable may be sued.

111. Where judgment has been obtained against such partner, and the Judge certifies that the demand proved was strictly a partnership transaction, the Bailiff, in order to satisfy

Bailiff may seize property of firm on certificate of Judge.

the judgment and costs and charges thereon, may seize and sell the property of the firm, as well as that of the defendants who have been served. R. S. O. c. 1887, c. 51, s. 107.

Adding Parties.

Adding party
defendant,
primary
debtor or gar-
nishee.

112. The following provisions shall apply to and in respect of any action brought in a Division Court:

1. The Judge may, at any time after action commenced, upon the application of either party, and upon such terms as may appear to him to be just, order that the name of any party who ought to have been joined in the action as a defendant, primary debtor or garnishee, shall be added as a party defendant, primary debtor or garnishee.

2. If it appears to the Judge, either before or at the trial of an action, that any party ought to be added as a party defendant, primary debtor or garnishee, in order that the Court may settle all rights and questions involved in the action, the Judge may order such party to be added accordingly.

Service on
parties added.

3. Every person whose name is so added as a defendant, primary debtor or garnishee, shall be served with a copy of the summons, the original summons being first properly amended, and the proceedings against such added defendant, primary debtor or garnishee, shall be deemed to have been commenced from the date of the order making him a party defendant, primary debtor or garnishee; but if the application to add any party as a party defendant, primary debtor or garnishee be made at the trial, the Judge may make the order in a summary manner, and may dispense with the service of a copy of the summons if such defendant, primary debtor or garnishee, or his solicitor consents thereto, upon such terms as to costs or an adjournment of the trial, as to the Judge shall appear just. R. S. O. 1887, c. 51, s. 108 (1-3); 52 V. c. 12, s. 12.

Service on
partners.

4. Any two or more persons claiming, or being liable as co-partners may sue, or be sued in the name of the respective firms, if any. Where partners are sued in the name of their firm, the summons may be served on one or more of the partners and subject to the provisions in the next two subsections contained, such service shall be deemed good service upon the firm; but the affidavit of the service of the summons shall state the name of the partner served. Any party may, at any time before or after judgment, apply to the Judge for an order directing a statement to be furnished of the names of all the persons who are co-partners in any firm which is a party to the action by the firm named.

Execution
against
partners.

5. Where a judgment is against partners in the name of the firm, execution may issue in the manner following:—

(a) Against any goods of the partners;

(b) Against the goods of any person who has admitted in the notice of dispute or defence filed that he is a partner, or who has been adjudged a partner;

(c) Against any person who has been served as a partner with a copy of the summons and who has failed to appear.

6. Upon the trial of an action against a firm, if the plaintiff is desirous of obtaining a judgment against the individual partners, other than the one served with a copy of the summons, and in addition to his judgment against the firm, he may procure the addition of the remaining partners as defendants under subsections 1 and 3 of this section, and thereafter proceed to judgment against them in the action as in other cases. R. S. O. 1887, c. 51, s. 108 (4-6).

Adding partners as defendants.

Judgment by Default where Summons Specially Endorsed.

113. In actions brought in a Division Court for the recovery of any debt or money demand, where the particulars of the plaintiff's claim, with reasonable certainty and detail, are endorsed on or attached to the summons, and a copy of the summons and particulars, with a notice in the form prescribed by the General Rules or Orders relating to Division Courts from time to time in force, annexed to or endorsed on such copy has been duly served, then, unless the defendant has left with the Clerk, within eight days after the day of service (where the service is required to be ten days before the return), or within twelve days after the day of service (where the service is required to be fifteen days before the return) a notice to the effect that he disputes the claim, or some part, and how much thereof, final judgment may be entered by the Clerk on the return of such summons, or at any time within one month thereafter for the amount claimed in such particulars or so much thereof as has not been disputed, and execution may issue thereon at the instance of the plaintiff without prejudice to his right to recover for the remainder of his claim. R. S. O. 1887, c. 51, s. 109 (1); 56 V. c. 15, s. 3.

In proceedings by special summons final judgment entered by the clerk when claim in whole or in part not disputed, etc.

114—(1) The final judgment so entered may be in the form prescribed by the General Rules or Orders relating to Division Courts from time to time in force, but no such judgment shall be so entered until the summons and particulars with an affidavit of the due service of both have been filed.

Summons, particulars and affidavit to be filed.

(2) The Judge may set aside such judgment, and permit the case to be tried, on sufficient grounds shewn, on such terms as to costs and otherwise as he thinks just. R. S. O. 1887, c. 51, s. 109 (2, 3).

Judge may set aside judgment.

Judgment by default under s. 113, where final judgment not entered.

115. When due proof is made by affidavit or otherwise of the service of a special summons issued under section 113 of this Act, and of particulars of the plaintiff's claim or demand as required by the said section, and final judgment has not been entered under the provisions thereof, the Judge may if the defendant does not in person or by agent appear in open Court pursuant to and as required by the summons, give judgment against the defendant by default, without requiring proof of the plaintiff's claim or demand, and with the same consequences and effect as if the plaintiff had proved his claim or demand in open Court. R. S. O. 1887, c. 51, s. 110.

Motion for judgment.

116.—(1) In any action within the meaning of section 113 of this Act, for the recovery of the sum of \$25 or upwards, the plaintiff in the action may, on an affidavit made by himself or by any other person who swears positively to the debt or cause of action, verifying the cause of action and stating that in his belief there is no defence to the action, concurrently with the service of the summons commencing the action, or at any subsequent time, serve the defendant with a notice of motion to shew cause before the Judge of the Division Court in which the action is brought why the plaintiff should not be at liberty to have final judgment entered in his favour by the clerk for the amount of the debt or money demand sought to be recovered in the action together with interest, if any, and costs. A copy of the affidavit shall accompany the notice of motion. The Judge may thereupon, unless the defendant by affidavit or otherwise satisfies the Judge that he has a good defence to the action on the merits or discloses such facts as may be deemed sufficient to entitle him to defend the action, make an order empowering the Clerk to sign final judgment accordingly. 60 V. c. 14, s. 6.

(2) The application by the plaintiff for leave to have final judgment entered in his favour under the provisions of this section shall be made on notice returnable not less than two clear days after service.

(3) The defendant may shew cause against the application by offering to bring into court the amount sought to be recovered in the action, or by affidavit. In the affidavit he shall state whether the defence he alleges goes to the whole or to part only, and if to part only then to what part of the plaintiff's claim. And the Judge may, if he thinks fit, order the defendant to attend and be examined upon oath, or to produce any books or documents, or copies of, or extracts therefrom.

(4) In case it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim, or that any part of his claim is admitted to be due, the plaintiff shall be

entitled to have final judgment entered forthwith for such part of his claim as the defence does not apply to or as is admitted to be due, subject to such terms, if any, as to suspending execution, or the payment of any amount levied, or any part thereof, into court by the bailiff, the taxation of costs, or otherwise, as the Judge may think fit; and the defendant may be allowed to defend as to the residue of the plaintiff's claim.

(5) If it appears to the Judge that any defendant has a good defence, or ought to be permitted to defend, and that any other defendant has not such defence, and ought not to be permitted to defend, the former may be permitted to defend, and the plaintiff shall be entitled to have final judgment entered against the latter, and may issue execution upon the judgment without prejudice to his right to proceed with his action against the former.

(6) Leave to defend may be given unconditionally, or subject to such terms as to giving security or otherwise, as the Judge may think fit. R. S. O. 1887, c. 51, s. 111 (2-6.)

117. The Judge at any time before judgment actually entered, although the time for giving the notice disputing the plaintiff's claim has expired, may, on sufficient grounds shewn, and on such terms as he thinks just, grant leave to the defendant to dispute the plaintiff's claim, in which case the requisite notice disputing the claim shall immediately be left with the Clerk, and also sent to the plaintiff, by prepaid letter through the post or otherwise. R. S. O. 1887, c. 51, s. 112.

Leave to dispute claim at any time before judgment.

118. A defendant who has filed a notice of defence in any action may, by notice in writing to the Clerk, at least six days before the sittings at which the same may be tried, withdraw such defence, and consent that judgment be entered against him for any amount, and the Clerk shall immediately notify the plaintiff thereof by mail, and thereupon the plaintiff shall be entitled to have judgment entered by the Clerk as by default for such amount, and the costs necessarily incurred. R. S. O. 1887, c. 51, s. 113.

Withdrawal of defence.

119. In any case in which the defendant, primary debtor or garnishee has given the Clerk notice that he disputes the plaintiff's claim, or any other notice of which the plaintiff should be informed before the trial, or in any case in which it has become the duty of the Clerk to give notice to any party to a cause of any defence, admission, Judge's order or other matter, of which he should be notified before the trial, such notice shall show the place and time of the sittings of the Court, at which the cause is to be heard. 52 V. c. 12 s. 25.

Requisites of notices.

Trial.

Judge may summarily dispose of cause or nonsuit plaintiff.

120. In cases in which a trial is to be had, the defendant shall, on the day named in the summons, either in person or by some person on his behalf, appear in the court to answer, and, on answer being made, the Judge shall, without further pleading or formal joinder of issue, proceed, in a summary way, to try the cause and give judgment; and in case satisfactory proof is not given to the Judge entitling either party to judgment, he may nonsuit the plaintiff; and the plaintiff may, before verdict in jury cases, and before judgment pronounced in other cases, insist on being nonsuited. R. S. O. 1887, c. 51, s. 114.

Order in which actions to be tried.

121. The Clerk shall place all actions in which the sum sought to be recovered exceeds \$100 at the foot of the trial list, and the other actions on the list and business of the Court shall be disposed of before entering upon the trial of any of the first mentioned actions, unless the Judge for special reasons otherwise orders; the Judge shall, in such cases when no agreement not to appeal has been signed and filed, take down the evidence in writing, and shall leave the same with the Clerk of the Court, but in the event of an application for a new trial it shall be forwarded to the Judge by the Clerk for the purposes of such application. R. S. O. 1887, c. 51, s. 115.

Evidence to be taken down.

Parties may agree not to appeal.

122. No appeal shall lie if before the Court opens, or if without the intervention of the Judge before the commencement of the trial, there shall be filed with the Clerk, in any case, an agreement in writing not to appeal, signed by both parties, or their solicitors or agents, and the Judge shall note in his minutes whether such agreement was so filed or not, and the minutes shall be conclusive evidence upon that point. R. S. O. 1887, c. 51, s. 116.

Proceedings in case defendant does not appear.

123. If on the day named in the summons the defendant does not appear, or sufficiently excuse his absence, or if he neglects to answer, the Judge, on proof of due service of the summons and copy of the plaintiff's account, claim or demand, may proceed to the hearing or trial of the cause on the part of the plaintiff only, and the order, verdict or judgment thereupon shall be final and absolute, and as valid as if both parties had attended; and, except in tort or trespass, in case of the personal service of the summons and of detailed particulars of the plaintiff's claim, the Judge may, in his discretion, give judgment without further proof. R. S. O. 1887, c. 51, s. 117.

Judge may adjourn hearing of cause.

124. In case the Judge thinks it conducive to the ends of justice, he may adjourn the hearing of any cause in order to permit either party to summon witnesses or to produce further proof, or to serve or give any notice necessary to enable the

party to enter more fully into his case or defence, or for any other cause which the Judge thinks reasonable, upon such conditions as to the payment of costs and admission of evidence or other equitable terms, as to him seems just. R. S. O. 1887, c. 51, s. 118.

125. Where an action is being tried by a jury, the Judge, if he thinks it expedient for the interest of justice, may postpone or adjourn the trial for such time and upon such terms, if any, as he shall think fit. R. S. O. 1887, c. 51, s. 119.

Postponement
of jury trial.

126. Any person may appear at the trial or hearing of any cause, matter or proceeding as agent and advocate for any party to any such cause, matter or proceeding in the Division Courts, except where prohibited under the next section. R. S. O. 1887, c. 51, s. 120.

All persons
empowered to
act as agents
or advocates.

127. The Judge or acting Judge may, wherever in his opinion justice appears to require it, prevent any person from appearing at the trial or hearing of any cause, matter or proceeding in the Court, as agent and advocate for any party or parties to any such cause, matter or proceeding. R. S. O. 1887, c. 51, s. 121.

Judge may
prevent any
one from act-
ing as agent
or advocate in
certain cases.

Tender or Payment of Money into Court.

128. If the defendant in an action of debt or contract brought against him in a Division Court, desires to plead a tender before action brought, of a sum of money in full satisfaction of the plaintiff's claim, he may do so on filing his plea with the Clerk of the Court before which he is summoned to appear, at least six days before the day appointed for the trial of the cause, and at the same time paying into Court the amount of the money mentioned in the plea; and notice of the plea and payment shall be forthwith communicated by the Clerk of the Court to the plaintiff by post (on receiving the necessary postage), or by sending the same to his usual place of abode or business. R. S. O. 1887, c. 51, s. 122.

Plea of tender
with payment
of money into
Court.

129. The said money shall be paid to the plaintiff, less \$1 to be paid over to the defendant for his trouble, in case the plaintiff does not further prosecute his action; and all proceedings in the action shall be stayed unless the plaintiff, within three days after the receipt of notice of the payment, signifies in writing to the Clerk of the Court his intention to proceed for his demand, notwithstanding such plea; and in such case the action shall proceed accordingly. R. S. O. 1887, c. 51, s. 123.

Amount
tendered to be
paid to plain-
tiff, etc.

130. If after such tender and payment into Court the plaintiff proceeds with his action and the decision thereon is for the defendant, the plaintiff shall pay the defendant his costs, charges and expenses, to be awarded by the Court, and

Rule as to
costs where
plaintiff pro-
ceeds for
balance.

the amount thereof may be paid over to the defendant out of the money so paid in with the said plea, or may be recovered from the plaintiff in the same manner as any other money payable under a judgment of the Court; but, if the decision be in favor of the plaintiff, the full amount of money paid into Court as aforesaid shall be applied to the satisfaction of his claim, and a judgment may be pronounced against the defendant for the balance due and the costs of suit according to the usual practice of the Court in other cases. R. S. O. 1887, c. 51, s. 124.

Defendant
may pay
money into
Court.

131. The defendant may at any time, not less than six days before the day appointed for the trial, pay into Court such sum as he thinks a full satisfaction for the plaintiff's demand, together with the plaintiff's costs up to the time of such payment. R. S. O. 1887, c. 51, s. 125.

Clerk to give
notice of pay-
ment to
plaintiff.

132. The Clerk having received the necessary postage, shall forthwith send notice of such payment to the plaintiff by post or otherwise to his usual place of abode or business, and the sum so paid shall be paid to the plaintiff, and all proceedings in the action stayed, unless within three days after the receipt of the notice the plaintiff signifies in writing to the Clerk his intention to proceed for the remainder of the demand claimed, in which case the action shall proceed as if brought originally for such remainder only. R. S. O. 1887, c. 51, s. 126.

Plaintiff to
pay defend-
ant's costs if
no further sum
recovered.

133. If the plaintiff recovers no further sum in the action than the sum paid into Court, the plaintiff shall pay the defendant all costs, charges and expenses incurred by him in the action after such payment, and such costs, charges and expenses shall be taxed, and may be recovered by the defendant by the same means as any other sum ordered to be paid by the Court. R. S. O. 1887, c. 51, s. 127.

Set-off and Statutory Defences.

Defendant to
give notice of
set-off or other
statutory de-
fence.

134. In case the defendant desires to avail himself of the law of set-off, or of the Statute of Limitations, or of any defence under any other statute in force in Ontario, he shall, at least six days before the trial or hearing, give notice thereof in writing to the plaintiff, or leave the same for him at his usual place of abode if within the division, or, if living without the division, shall deliver the same to the Clerk of the Court in which the action is to be tried; and in case of a set-off the particulars thereof shall be delivered to the Clerk and shall accompany the notice to be given as aforesaid to the plaintiff. R. S. O. 1887, c. 51, s. 128.

Evidence of
set-off.

135. No evidence of set-off shall be given by the defendant except such as is contained in the particulars of set-off delivered. R. S. O. 1887, c. 51, s. 129.

136. If the set-off, proved to the satisfaction of the Judge, exceeds the amount shewn to be due to the plaintiff, the plaintiff shall be non-suited or the defendant may elect to have judgment for the excess, provided the excess be an amount within the jurisdiction of the Court, and if the excess be greater in amount than the jurisdiction of the Court the Judge may adjudicate that an amount of the set-off equal to the amount shewn to be due to the plaintiff be satisfied by the claim but the adjudication shall be no bar to the recovery by the defendant in a subsequent action for the residue of the set-off. R. S. O. 1887, c. 51, s. 130.

Provisions if set-off exceeds amount due to plaintiff.

WITNESSES AND EVIDENCE.

Subpœnas.

137. Any of the parties to an action may obtain, from the Clerk of any Division Court in the County, a subpœna with or without a clause for the production of books, papers and writings, requiring any witness, resident within the Province or served with the subpœna therein, to attend at a specified Court or place before the Judge, or any arbitrator appointed by him under the provision hereinafter contained, and the Clerk, when requested by any party to an action, or his agent, shall give copies of such subpœna. R. S. O. 1887, c. 51, s. 131.

Parties may obtain subpœnas from clerk.

138. Any number of names may be inserted in a subpœna, and service thereof may be made by any literate person, and proof of the due service thereof, together with the tender or payment of expenses, may be made by affidavit, and proof of service may be received by the Judge, either orally or by affidavit. R. S. O. 1887, c. 51, s. 132.

Service of subpœna, by whom made.

139. Every person served with a copy of a subpœna either personally or at his usual place of abode, and to whom at the same time a tender of payment of his lawful expenses is made, who refuses or neglects without sufficient cause to obey the subpœna, and also every person in Court called upon to give evidence, who refuses to be sworn (or affirm where affirmation is by law allowed) or to give evidence, shall pay such fine not exceeding \$8 as the Judge may impose, and shall, by verbal or written order of the Judge, be, in addition, liable to imprisonment for any time not exceeding ten days; and the fine shall be levied and collected with costs, in the same manner as fines imposed on Jurymen for non-attendance, and the whole or any part of the fine, in the discretion of the Judge, after deducting the costs, shall be applicable toward indemnifying the party injured by such refusal or neglect, and the remainder thereof shall form part of the Consolidated Revenue Fund. R. S. O. 1887, c. 51, s. 133.

Penalty for disobeying subpœna or refusing to be sworn.

Expenses to be paid witness out of county.

140. Any person served with such subpoena, who is resident in Ontario, but out of the County in which the Division Court is situate, shall be entitled to be paid witness fees and mileage according to the County Court tariff. R. S. O. 1887, c. 51, s. 134.

Commissions to take Evidence.

Power to issue commissions to take evidence.

141. In case the plaintiff or defendant in an action in a Division Court is desirous of having at the trial thereof the testimony of a person residing without the limits of the Province, the Judge of the County Court of the County wherein the action is pending, may, upon the application of the plaintiff or defendant, and upon hearing the parties, order the issue of a commission out of and under the seal of the Division Court to a Commissioner to take the examination of such person. R. S. O. 1887, c. 51, s. 135 ; 52 V. c. 12, s. 13.

When commission to take evidence of applicant, etc., may be granted.

142. No order shall be made for the issue of such commission for the taking of the evidence of the person applying therefor, or any person in his employment, unless in the opinion of the Judge a saving of expense will be caused thereby, or unless it is clearly made to appear that the person is aged, infirm, or unable from sickness to appear as a witness. R. S. O. 1887, c. 51, s. 136.

Examination of witnesses whose attendance at trial cannot be obtained.

143. In case it is made to appear to the Judge that a material and necessary witness residing within the Province is sick, aged, or infirm, or that he is about to leave the Province, and that his attendance at Court as a witness cannot by reason thereof be procured, the Judge may make an order appointing a suitable person to take the evidence of the said person. A copy of the order, with two days' notice of the time, and place of the examination shall be served upon the opposite party, his solicitor or agent, who may appear, and cross examine the witness. The evidence shall be taken on oath, and shall be reduced to writing, and signed by the witness, and shall be transmitted to the Clerk of the Court, and shall be by him kept on file, and may be used upon the trial, saving all just exceptions. The costs of the order shall be in the discretion of the Judge, and the reasonable charge of the examiner (to be fixed by the Judge) shall, in the first instance be paid by the party obtaining the order, as in the case of witness fees, and shall thereafter be paid as the Judge may order. R. S. O. 1887, c. 51, s. 137.

Examination of witness residing at a distance from place of trial.

144.—(1) An order may also be obtained for the examination of a witness who resides in a remote part of the Province, and at a great distance from the place of trial, if it be clearly made to appear that his attendance cannot be procured, or that the expense of his attendance would be out of proportion to the amount involved in the action, or would be so great that the

party desiring his attendance should not, under the circumstances, be required to incur the same; and the proceedings thereon, and the order as to costs, shall be the same as in the case of an order in the next preceding section mentioned.

(2) Any person appointed to take an examination under this or the next preceding section shall have authority to administer an oath to the person to be examined. R. S. O. 1887, c. 51, s. 138.

145. The provisions of the Rules of the Supreme Court of Judicature, so far as the same are applicable, shall apply to every commission issued under the authority of this Act. Rules made applicable to commissions. R. S. O. 1887, c. 51, s. 139.

146. The commission, with the evidence taken thereunder and the papers therewith, shall forthwith be returned to the Clerk of the Division Court in which the action to which the same relates is pending. Return of commission to take evidence. 52 V. c. 12, s. 14.

147. The costs of the issue, transmission, execution and return of any such commission shall be in the discretion of the Judge of the Court in which the action is pending, who may allow a sum in gross therefor; and the costs may be added to any other costs to be paid to the party entitled thereto, and may be recovered by the party entitled thereto in like manner as the ordinary costs of the action are recoverable by the practice of the Division Courts. Costs of commission. R. S. O. 1887, c. 51, s. 141; 52 V. c. 12, s. 15.

Books of Account, Affidavits, etc., as Evidence.

148. In an action for a debt or demand, not being for tort, and being under \$25, the Judge, on being satisfied of their general correctness, may receive the plaintiff's books as evidence, or in case of a defence of set-off or of payment, so far as the same extends to \$25, may receive the defendant's books as evidence, and the Judge may also receive as evidence the affidavit or affirmation of any party or witness in the action resident without the limits of the county, but, before pronouncing judgment, the Judge may require such witness or any party in a cause to answer upon oath or affirmation any interrogatories that may be filed in the action. Judge may receive in evidence plaintiff's or defendant's books of account. R. S. O. 1887, c. 51, s. 142; 60 V. c. 3, s. 3.

149. All affidavits to be used in Division Courts or before any of the Judges thereof, may be sworn before a County Judge or before the Clerk or Deputy Clerk of a Division Court, or before a Judge, Notary Public or Commissioner for taking affidavits in the High Court. Affidavits may be sworn before a Judge, Clerk, etc. R. S. O. 1887, c. 51, s. 143.

JUDGE'S DECISION.

Judge may give judgment instant, or postpone judgment.

150. The Judge, in any case heard before him shall, in Court, openly, and as soon as may be after the hearing, pronounce his decision ; but if he is not then prepared to pronounce a decision he may postpone it until it is convenient for him to give the same, when he shall forthwith send the same to the Clerk of the Court, who shall, upon the receipt thereof by him, forthwith enter the judgment and by registered letter notify the parties to the suit of the same ; and such judgment shall be as effectual as if rendered in Court at the trial. R. S. O. 1887, c 51, s. 144; 57 V. c. 23, s. 4.

Judge may direct times and proportions in which judgment shall be paid.

151. The Judge may order the time or times and the proportions in which any sum and costs recovered by judgment of the Court shall be paid, reference being had to the day on which the summons was served, but unless otherwise ordered, no execution shall issue on any such judgment within fifteen days after the entering of such judgment, and at the request of the party entitled thereto, the Judge may order the same to be paid into Court. R. S. O. 1887, c. 51, s. 145, part.

New trial.

152.—(1) The Judge, upon the application of either party, within fourteen days after the trial, or after the mailing of the notice of the decision to the party applying where the decision is not given at the trial, and upon good grounds being shewn, may grant a new trial upon such terms as he thinks reasonable, and in the meantime may stay proceedings. R. S. O. 1887, c. 51, s. 145, part; 52 V. c. 12, s. 16.

Judgment on application for new trial.

(2) Upon an application for a new trial the Judge, instead of granting a new trial, may pronounce the judgment which in his opinion ought to have been pronounced at the trial, and may order judgment to be entered accordingly. R. S. O. 1887, c. 51, s. 146.

Execution not to be postponed for more than 50 days.

153. Except in cases where a new trial is granted, the issue of execution shall not be postponed for more than fifty days from service of the summons without the consent of the party entitled to the same, but in case it at any time appears to the satisfaction of the Judge, by affidavit, affirmation or otherwise, that a defendant is unable, from sickness or other sufficient cause, to pay and discharge the debt or damages recovered against him, or any instalment thereof, ordered to be paid as aforesaid, the Judge may suspend or stay any judgment, order or execution given, made or issued in the action, for such time and on such terms as he thinks fit, and so from time to time until it appears by the like proof that the temporary cause of disability has ceased. R. S. O. 1887, c 51, s. 147.

APPEALS.

Appeal to High Court of Justice.

154.—(1) In case a party to a cause or any of the parties to garnishee proceedings under this Act wherein the sum in

dispute upon the appeal exceeds \$100 exclusive of costs, is dissatisfied with the decision of the Judge, upon an application for a new trial, he may appeal to a Divisional Court of the High Court of Justice, and in such case the proceedings in and about the appeal shall be the same as on an appeal from a County Court, except where otherwise provided by this Act, and the terms "party to a cause" and "appellant" in this section and hereafter used shall have the meaning attached thereto in and by section 50 of *The County Courts Act*, and shall also include any party to garnishee proceedings and any party added by order of the Judge. R. S. O. 1887, c. 51, s. 148 (1); 51 V. c. 10, s. 2; 58 V. c. 13, s. 47 (1) part.

Rev. Stat. c.
55.

(2) An appeal shall also lie to a Divisional Court of the High Court of Justice from the decision of a Division Court Judge upon an application for a new trial in all actions in which the parties consent to an appeal, and in interpleader, where the money claimed, or the value of the goods or chattels claimed or of the proceeds thereof, exceed \$100, or where the damages claimed by or awarded to either party against the other or against the Bailiff, exceed the sum of \$60. R. S. O. 1887, c. 51, s. 148 (2); 58 V. c. 13, s. 47 (1) part.

Appeal in
interpleader
proceedings.

155. Where, in any Division Court suit or proceeding, a decision is given which, in effect or in terms, renders invalid any general assessment made by a mutual insurance company, such decision shall be appealable, notwithstanding the sum in dispute upon the appeal is less than \$100, and all the provisions contained in sections 154 to 159, both inclusive, of this Act shall apply to such appeal. 60 V. c. 36, s. 138 (2).

Appeals
affecting
assessments
made by
mutual in-
surance co.

156. Upon an application for a new trial in any cause wherein either party may appeal, each party shall leave with the Judge by whom the application is heard, a memorandum in writing of the name of some person resident within the county town of the county or united counties in which the cause was tried, with his place of abode, upon whom the notice of appeal, and all other papers thereafter requiring service, may be served for him, and service upon such person, or, in his absence, at his place of abode, shall be sufficient service thereof; and, in the event of failure to leave such memorandum by either party, all papers requiring service upon him may be served upon the Clerk of the Division Court where the trial was had, or left at his office, for the person so failing to leave such memorandum, and such service shall be good service; the Clerk shall, in such case, forthwith mail, by registered letter, all such papers so served upon him to the person entitled to the same. R. S. O. 1887, c. 51, s. 150.

Agent for
service where
right to
appeal.

157. The Clerk of the Court in which the action or proceeding is pending, shall, at the request of the appellant, his counsel, solicitor, or agent, furnish a duly certified copy of the

Certified
copies of pro-
ceedings, etc.,
to be furnished
by clerk.

summons with all notices indorsed thereon, the claim, and any notice or notices of defence, and of the evidence and all objections and exceptions thereto, and of all motions or orders made, granted, or refused therein, together with such notes of the Judge's charge as have been made, the judgment or decision when in writing, or the notes thereof, and all affidavits filed or used in the cause, together with all other papers filed in the cause affecting the questions raised by the appeal; the Clerk shall also furnish to the respondent, when required so to do, a duplicate copy of the proceedings so furnished to the appellant, or such portion thereof as may be required by him, and for every copy he shall be entitled to receive the sum of five cents per folio of one hundred words. R. S. O. 1887, c. 51, s. 151; 58 V. c. 13, s. 47 (3).

Procedure
upon appeal
from division
court.

158. The appellant shall, within two weeks after the date of the decision complained of or within such other time as the Judge may by order in that behalf provide, file the said certified copy with the proper officer of the High Court and shall thereupon forthwith set down the cause for argument at the first sittings of a Divisional Court which commences after the expiration of one month from the decision complained of, and shall give notice thereof and of the appeal and of the grounds thereof, to the respondent, his solicitor or agent, at least seven days before the commencement of such sittings; and the Divisional Court shall have power to dismiss the appeal or to give any judgment and make any order which ought to have been made, and shall give such order or direction to the Court below touching the decision or judgment to be given in the matter as the law requires, and shall also award costs in its discretion which costs shall be certified to and form part of the judgment of the Court below, and upon receipt of such order, direction and certificate, the Court below shall proceed in accordance therewith. 58 V. c. 13, s. 47, (4).

Taxable costs
on appeal.

159. The costs taxable, as between party and party upon or connected with any appeal shall be the actual disbursements and no greater amount over and above actual disbursements than \$15, inclusive of counsel fee; the costs of such appeal as between solicitor and client, shall be taxable on the County Court scale. R. S. O., 1887, c. 51, s. 153; 58 V. c. 13, s. 47, (5).

JURIES.

When a jury
may be re-
quired.

160. Either party may require a jury in tort or replevin where the sum or the value of the goods sought to be recovered exceeds \$20, and in all other cases where the amount sought to be recovered exceeds \$30. R. S. O. 1887, c. 51, s. 154.

161.—(1) Either party to an interpleader issue in a Division Court may require a jury to be summoned to try the issue and in such cases he shall, within five days after the day of service of the summons on him, give to the Clerk or leave at his office notice in writing, requiring a jury, and shall at the same time deposit with the Clerk towards the costs in the cause, the proper fees for the expenses attending the summoning of the jury, and thereupon a jury shall be summoned according to the provisions of this Act. R. S. O. 1887, c. 51, s. 155 (1); 57 V. c. 23, s. 5.

Right to jury
in inter-
pleader.

(2) Sections 121, 122 and 214, shall extend and apply to all interpleader issues and other actions mentioned in subsection 2 of section 154. R. S. O. 1887, c. 51, s. 155 (2).

162. In case the plaintiff requires a jury to be summoned to try the action, he shall give notice thereof in writing to the Clerk one week before the sitting of the Court at which the case is to be tried, and shall at the same time deposit with the Clerk towards the costs in the cause the proper fees for the expenses attending the summoning of the jury; and in case the defendant requires a jury, he shall, within five days after the day of service of the summons on him, give to the Clerk or leave at his office the like notice in writing, and shall at the same time deposit with the Clerk the proper fees as aforesaid; and thereupon, in either of such cases, a jury shall be summoned according to the provisions hereinafter contained. Provided however that in any case transferred from one Division Court to another under section 91 of this Act, either plaintiff or defendant may require a jury to be summoned by giving to the Clerk of the Court to which such case has been transferred, or leaving at his office three clear days before the sittings of the Court at which the case is to be tried, a notice requiring a jury to be summoned, and by depositing with the Clerk toward the costs in the cause, the proper fees for the expenses of summoning the jury. R. S. O. 1887, c. 51, s. 156; 57 V. c. 23, s. 6; 60 V. c. 14, s. 8.

Parties to give
notice to clerk
if they require
a jury.

Proviso.

163. Unless exempted by *The Jurors' Act*, every person whose name appears on the last published voters' list of any municipality, partly or wholly situate within the limits of any Division Court, and who resides within the Division, and whose name is marked 'J,' as provided in section 23 of the said Act shall be liable to serve as a juror for the Division Court in such Division. 52 V. c. 12, s. 17.

Who may be
jurors
Rev. Stat.
c. 61,

164.—(1) The jurors to be summoned to serve at any Division Court shall be residents of the division, and shall be taken from the last published voters' lists of the municipalities, partly or wholly within the division, and shall be summoned in rotation, beginning with the first of such persons in such voters' lists who resides within the division, and whose name is marked

Jurors, how
selected and
summoned.

'J,' as provided in the preceding section, and if there be more than one municipality partly or wholly in the division, beginning with the voters' list for the municipality within which the Court is held, and then proceeding to that one of the other voters' lists which contains the greatest number of such persons' names, and so on until all the lists have been gone through, after which they may be gone through again in the same order.

(2) If at any time it shall appear to the County Judge that the cost of summoning a jury is excessive, by reason of the residences of the persons liable to be selected in the ordinary course being in a distant portion of the division, the County Judge may order the Clerk of the Division Court to commence at the first name marked 'J,' as before provided upon the voters' list of any municipality partly or wholly within the division. 52 V. c. 12, s. 18.

Clerk of
municipality
to furnish
Division Court
Clerk with
copy of voters'
list.

165. The Clerk of every municipality shall furnish each Division Court Clerk within whose division the said municipality is partly or wholly situate, with a correct copy of the voters' list of the said municipality immediately after the publication of the same in each year; and after a new voters' list is furnished to him the Division Court Clerk shall take the names of jurors therefrom, beginning as nearly as may be at the part of the list corresponding to the place where he left off in the previous list. 52 V. c. 12, s. 19.

Summoning
jurors.

166. For the trial of actions required to be tried by or before a jury at any session of a Division Court the Clerk of the Court shall cause not less than twelve of the persons liable to serve as jurors to be summoned to attend at such session at the time and place to be mentioned in the summons, and the summons shall be served at least three days before the Court, either personally, or by leaving the same with a grown up person at the residence of the juror, and the Clerk shall issue a summons and also twelve copies thereof for service on the said jurors, which summons shall be returned to the Clerk with the service thereof duly verified by the oath of the Bailiff serving the same. R. S. O. 1887, c. 51, s. 160 : 52 V. c. 12, s. 20.

Parties en-
titled to
challenge.

167. Either of the parties to a cause shall be entitled to his lawful challenge against any of the jurors in like manner as in other courts. R. S. O. 1887, c. 51, s. 161.

Penalty on
jurors dis-
obeying
summons.

168. Any juryman who, after being duly summoned for that purpose, wilfully neglects or refuses to attend the court, in obedience to the summons, shall be liable to a fine in the discretion of the Judge, not exceeding \$4, which fine shall be levied and collected with costs, by the same process as any debt or judgment recovered in the said Court, and shall form part of the Consolidated Revenue Fund. R. S. O. 1887, c. 51, s. 162.

169. If any Clerk of a municipality, for six days after demand in writing, neglects or refuses to furnish the Clerk of a Division Court, within the limits of which the municipality for which he is Clerk, is partly or wholly situate, with a correct copy of the voters' list as provided in section 165 of this Act, the Clerk of the Division Court may issue a summons to be personally served on the said Clerk of the municipality, three days at least before the sitting of the Court, requiring him to appear at the then next sitting of the Court, to shew cause why he refused or neglected to comply with the provisions of the said section. 52 V. c. 12, s. 21.

Proceedings against clerk of municipality for refusing to furnish copy of voters list.

170. Upon proof of the service of the summons, the Judge may, in a summary manner, inquire into the neglect or refusal, or may give further time, and may impose such fine upon the Clerk of the municipality, not exceeding \$20, as he deems just, and may also make such order for the payment by the Clerk of the municipality of the costs of the proceedings as to the said Judge seems meet; and all orders made by the Judge for the payment of a fine or costs shall be enforced against the Clerk of the municipality by such means as are provided for enforcing judgments in the Division Courts. R. S. O. 1887, c. 51, s. 165; 52 V. c. 12, s. 22.

Judge may fine municipal clerk for breach of duty.

171. The causes to be heard by the Judge alone shall be set down for hearing in a separate list from the list of causes to be tried by a jury, which two lists shall be severally called "The Judge's List," and "The Jury List," and the causes shall be set down in the lists in the order in which they were in the first instance entered with the Clerk;—"The Jury List" shall be first disposed of, and then "The Judge's List," except where the Judge sees sufficient cause for proceeding differently. R. S. O. 1887, c. 51, s. 166.

Judge's list and Jury list.

172. Five jurors shall be empanelled and sworn to do justice between the parties whose cause they are required to try, according to the best of their skill and ability, and to give a true verdict according to the evidence, and the verdict of every jury shall be unanimous. R. S. O. 1887, c. 51, s. 167, part.

Five jurors to be empanelled, etc.

Verdict to be unanimous.

173. In the event of the panel being exhausted before a jury is obtained, the Judge may direct the Clerk to summon from the body of the court a sufficient number of disinterested persons to make up a full jury, and any person so summoned may, saving all lawful exceptions and rights of challenge, sit and act as a juror as fully as though he had been regularly summoned. R. S. O. 1887, c. 51, s. 167, part.

Judge may call tales.

Judge may order jury to be empanelled to try any disputed fact.

174. In case the Judge before whom an action is brought thinks it proper to have any fact controverted in the cause tried by a jury, the Clerk shall instantly return a jury of five persons present, to try such fact, and the Judge may give judgment on the verdict of the jury, or may grant a new trial on the application of either party, in the same way and under similar circumstances as new trials are granted in other cases on verdicts of juries. Each juror so called and sworn shall be paid the sum of ten cents, and the moneys so paid shall be taxed as costs in the cause. This section shall extend and apply to the trial of an interpleader issue. R. S. O. 1887, c. 51, s. 168 ; 57 V. c. 23, s. 7.

Judge may discharge jury not agreeing, etc.

175. If in any case the Judge is satisfied that a jury, after having been out a reasonable time, cannot agree upon their verdict, he may discharge them, and adjourn the cause until the next Court, and order the Clerk to summon a new jury for the next sitting of the Court for that division, unless the parties consent that the Judge may render judgment on the evidence already taken, in which case he may give judgment accordingly. R. S. O. 1887, c. 41, s. 169.

Fees for jury fund.

176. There shall be paid to the Clerk of the Division Court, in addition to all costs or jury fees, now by law payable, on every action entered where the claim exceeds \$20 but does not exceed \$60, three cents ; where the claim exceeds \$60, but does not exceed \$100, six cents ; and where the claim exceeds \$100, twenty-five cents ; and the same shall be taxed and allowed as costs in the cause ; and on or before the 15th day of January in every year, every Clerk shall return to the Treasurer of the County a statement, under oath, shewing the number of actions originally entered in his Court during the year previous, in which the claim exceeded \$20 but did not exceed \$60, the number in which the claim exceeded \$60, but did not exceed \$100, and the number in which the claim exceeded \$100 ; and he shall, with the statement, pay over to the Treasurer the sum of three cents on every action so entered where the claim exceeded \$20 but did not exceed \$60 ; the sum of six cents on every action where the claim exceeded \$60, but did not exceed \$100 ; and the sum of twenty-five cents on every action where the claim exceeded \$100, together with all other moneys received by him for jurors' fees during the year ; and the Treasurer shall keep an account of all moneys so received by him under the head of "Division Court Jury Fund." R. S. O. 1887, c. 51, s. 170.

Return.

Return in cities forming separate divisions.

177. In every city which includes one or more entire divisions and no other fraction of a division the Clerk shall make the return and payment, provided for by the next preceding section, to the Treasurer of such City, who shall keep an account of such moneys in the same way as is provided in the case of County Treasurers, and shall, on the presentation of the certifi-

cate of the Judge, forthwith repay to the Clerk of the Court the jurors' fees paid by him in the same manner as is hereinafter provided in the case of County Treasurers. R. S. O. 1887, c. 51, s. 171.

178. The Clerk of every Division Court shall pay to every Fees of jurors. person who has been summoned as a juror, and who attends during the sittings of the court for which he has been summoned, and who does not attend as a witness in any cause, or as a litigant in his own behalf, the sum of \$1; and having so paid the same, except in the cases in the next preceding section provided for, the presiding Judge shall so certify to the Treasurer of the County, and shall deliver the certificate to the Clerk, and the Treasurer of the County shall, upon the presentation of the certificate to him, forthwith pay to the Clerk, or his order, the amount which the Clerk appears, by the certificate, to have paid the jurors as aforesaid; in the case of Cities, other than those provided for by the next preceding section, and Towns separated from the County, the amounts paid in by the Clerks of the Courts in such Cities and Towns, and the amount paid by the County Treasurer to the Clerks of such Courts for jury fees, shall be taken into account in settling the proportion of the charges to be paid by the City or Town towards the costs of administration of justice. R. S. O. 1887, c. 51, s. 172.

PROCEEDINGS TO GARNISH DEBTS.

179. Subject to the provisions of the next section, when Garnishment of debts. a debt or money demand of the proper competence of the Division Court, and not being a claim strictly for damages, is due and owing to one party from another party, either on a judgment of a Division Court or otherwise, and a debt is due or owing to the debtor from any other party, the party to whom such first mentioned debt or money demand is so due and owing (hereinafter designated the primary creditor), may attach and recover, in the manner herein provided, any debt due or owing to his debtor (hereinafter designated the primary debtor), from any other party (hereinafter designated the garnishee), or sufficient thereof to satisfy the claim of the primary creditor, subject always to the rights of other parties to the debts owing from such garnishee. R. S. O. 1887, c. 51, s. 173.

180. No debt due or accruing to a mechanic, workman, Debts due for wages not to be attached, except as to excess over \$25. labourer, servant, clerk, or employee for, or in respect of, his wages or salary, shall be liable to seizure or attachment under this Act, or any other Act relating to the attachment or garnishment of debts, unless the debt exceeds the sum of \$25, and then only to the extent of the excess. R. S. O. 1887, c. 51, s. 174. [See also *Cap. 156, sec. 7.*]

181. Nothing in the next preceding section contained Saving clause as to certain debts. shall apply to any case where the debt has been contracted

for board or lodging, and in the opinion of the Judge, the exemption of \$25 is not necessary for the support and maintenance of the debtor's family, or where the debtor is an unmarried person having no family depending on him for support, and the debt was contracted on or after the 23rd day of March, 1889. R. S. O. 1887, c. 51, s. 175; 52 V. c. 12, s. 23.

Memorandum on garnishee summons where debt attached is for wages.

182.—(1) In all cases under the provisions of sections 186 and 190 of this Act where the debt sought to be garnished is for wages or salary, there shall be upon, or annexed to the summons served on the garnishee, a memorandum showing the residence of the primary debtor and the nature of his occupation in the service of the garnishee at the time of the issuing of the summons (if then in such service), and also stating whether the debt alleged or adjudged to be due by the primary debtor to the primary creditor was or was not incurred for board or lodging, and in the absence of such last mentioned statement the said debt may be presumed by the garnishee not to have been incurred for board or lodging. R. S. O. 1887, c. 51, s. 177.

Debts due by unmarried persons.

(2) If the debt is alleged or adjudged to be due by an unmarried person having no family depending on him for support, a statement to that effect shall be upon or annexed to the summons served on the garnishee; and in the absence of such statement, such unmarried person may be presumed by the garnishee to have a family depending on him for support. 57 V. c. 23, s. 17.

Where the Creditor's Claim is a Judgment.

Attaching order to be granted on judgment.

183. After judgment has been recovered in a Division Court, application may be made to a Judge of the Court, by or on behalf of the primary creditor, on affidavit that such judgment was recovered, and when, and that the whole, or some part, and how much, thereof remains unsatisfied, and that the deponent has reason to believe, and does believe, that some one or more parties (naming them, or stating that he is unable to name them) is or are within this Province, and is or are indebted to the primary debtor, for an attaching order (which the Judge is hereby authorized to make), to the effect that all debts owing to the primary debtor, whether due or not due, be attached to satisfy the judgment; which order may be in the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts. R. S. O. 1887, c. 51, s. 178.

Service thereof to bind all debts, etc.

184. The service of the order on a garnishee shall have the effect (subject to the rights of other parties) of attaching and binding in his hands all debts then owing from him to the primary debtor, or sufficient thereof to satisfy the judgment,

and a payment by the garnishee into the Court, or to the primary creditor, of the debt so attached to the extent unsatisfied on the judgment, shall be a discharge to that extent of the debt owing from the garnishee to the primary debtor. Garnishee may pay in his own discharge.
 R. S. O. 1887, c. 51, s. 179.

185. Any payment by the garnishee, after service on him of the order, to any one other than the primary creditor, or into Court, to satisfy the judgment, shall to the extent of the primary creditor's claim, be void; and the garnishee shall be liable to pay the same again, to the extent of the primary creditor's claim, to satisfy the judgment unless the judge otherwise orders. Payment to any but primary creditor void.
 R. S. O. 1887, c. 51, s. 180.

186. Whether such attaching order is or is not made, the primary creditor may cause to be sued out of the Division Court for the division in which the garnishee, or one or more of them, if there be joint garnishees, resides or carries on business, a summons in the form prescribed by the General Rules or Orders, from time to time in force, relating to Division Courts, upon or annexed to which shall be a memorandum shewing the names of the parties as designated in the judgment, the date when, and the Court in which, it was recovered, and the amount unsatisfied; which summons shall be returnable either at any ordinary sittings of the Court, or at such other time and place (to be named therein) as the Judge may permit or appoint, either by a general order for the disposal of such matters or otherwise. Primary creditor may summon garnishee.
 R. S. O. 1887, c. 51, s. 181.

187. In proceedings under the preceding section, where the garnishees are likewise a body corporate, not having their chief place of business within the Province, then the summons mentioned in said section shall be issued from the Division Court in which the judgment has been recovered, and shall be served upon the agent of the body corporate, whose office as such agent is either within the division in which the judgment has been recovered, or is nearest thereto. Service on corporation, whose head office is not in the Province.
 R. S. O. 1887, c. 51, s. 182.

188. A copy of the summons and memorandum shall be duly served on the garnishee, or, if there be joint garnishees, then on such of them as are within reach of the process, at the time and in the manner required for the service of summonses in ordinary actions for corresponding amounts, and also on the primary debtor, if thought advisable, or if required by the Judge. Mode of service.
 R. S. O. 1887, c. 51, s. 183.

189. At the hearing of the summons, or at any adjourned hearing, on sufficient proof of the amount owing by the garnishee to the primary debtor, and no sufficient cause appearing Judgment at hearing.

why it should not be paid and applied in satisfaction of the judgment, the Judge may give judgment against the garnishee (which judgment may be in the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts), for the amount so owing from him, or sufficient thereof to satisfy the judgment; and execution against the garnishee to levy the same, may issue thereon as of course, if due, or when and as it becomes due, or at such later period as the Judge may order, which execution may be according to the form prescribed as aforesaid. R. S. O. 1887, c. 51, s. 184.

Where the Primary Creditor's Claim not a Judgment.

Where no judgment, summons on garnishee, etc., to issue.

190.—(1) Where judgment has not been recovered for the claim of the primary creditor, he may cause a summons in the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts, to be issued out of the Division Court of the division in which the garnishee, or one or more of them, if there be joint garnishees, live or carry on business, upon or annexed to which shall be a memorandum, shewing the names of the primary creditor, the primary debtor, and of the garnishee, and the particulars of the claim of the primary creditor, with reasonable certainty and detail; which summons shall be returnable as required by section 186 of this Act, in respect to the summonses therein mentioned.

Where garnishees are corporation out of Province.

(2) In the event of the garnishees being a body corporate, not having their chief place of business within the Province, then the summons shall be issued out of the Division Court for the division in which the cause of action arose, and shall be served upon the agent of the body corporate, whose office, as such agent, is nearest to the place where the cause of action arose.

Who may be deemed agent.

(3) Every person who within Ontario transacts or carries on any business of, or business for such body corporate, shall for the purpose of this section and of section 187 be deemed the agent thereof. R. S. O. 1887, c. 51, s. 185.

Service on garnishees.

191. A copy of the summons and memorandum shall be duly served on the garnishee, or if there be joint garnishees, then on such of them as are within reach of the process, at the time and in the manner required for service in ordinary cases; and also, if practicable, on the primary debtor, unless the Judge for sufficient reasons dispenses therewith. R. S. O. 1887, c. 51, s. 186.

Judgment in such case.

192.—(1) If in such case the primary debtor has been duly served with a copy of the summons and memorandum, judgment (in the usual form in other cases) may be given against him at the hearing for the primary creditor, for the whole, or such part of the claim as is sufficiently proved, and execution may

afterwards issue thereon as in other cases ; and whether such judgment is or is not given, the Judge, on sufficient proof of the debt due and owing from the primary debtor, and also of the amount owing to him from the garnishee, may then, or at any adjourned hearing, give judgment against the garnishee (which may be according to the form prescribed as aforesaid) for the amount so found due from the garnishee, to the extent of the amount so found due from the primary debtor, which sum the garnishee shall pay into Court, or to the primary creditor, towards the satisfaction of the claim, or in default thereof, execution may issue to levy the same forthwith, or at such later period as the Judge may direct, which execution may be according to the form prescribed as aforesaid. R. S. O. 1887, c. 51, s. 187.

(2) If no defence has been entered by the primary debtor and the primary creditor before the trial abandons the claim against the garnishee, final judgment may be entered for the claim of the primary creditor and costs by the Clerk as if there had been no garnishee proceedings. 60 V. c. 14, s. 9.

Where primary debtor enters no defence.

General Provisions.

193.—(1) In cases under this Act, and whether the claim of the primary creditor is or is not a judgment, the primary debtor, the garnishee and all other parties in an way interested in, or to be affected by the proceeding, shall be entitled to set up any defence, as between the primary creditor and the primary debtor, which the latter would be entitled to set up in an ordinary action, and also any such defence as between the garnishee and the primary debtor, and may also show any other just cause why the debt sought to be garnished should not be paid over or applied in or towards the satisfaction of the claim of the primary creditor.

All parties interested may show cause, etc.

(2) A primary debtor or garnishee who desires to set up a statutory or other defence or set-off or to admit his liability in whole or in part for the amount claimed in such action, shall file with the Clerk the particulars of such defence or set-off, or an admission of the amount due or owing by the primary debtor or the garnishee, as the case may be, within eight days after service on him of the summons, and the Clerk shall forthwith send by mail to each of the said parties to the action a copy of such defence, set-off or admission, and the primary creditor may file with the Clerk a notice that he admits the defence or set-off or accepts the admission of liability as correct ; a copy of the notice shall be sent by the Clerk by mail forthwith to the garnishee, and in the absence of any notice of defence or set-off from any primary debtor or garnishee, the Judge may, in his discretion, give judgment against such primary debtor or garnishee ; and in the event of the primary creditor failing to file a notice admitting or rejecting such defence, set-off or

Defences in garnishee proceedings.

admission of liability, the garnishee shall not be bound to attend at the trial, and the sum admitted to be due or owing by the garnishee, shall be taken to be the correct amount of his liability, unless the Judge shall otherwise order, in which latter case the garnishee shall be notified by the Clerk and shall have an opportunity of attending at a subsequent date and being heard before judgment is given against him.

Costs.

(3) The costs of all notices required to be given under this section, shall be costs in the cause, and in no case shall be payable by the garnishees, unless specially ordered by the Judge. R. S. O. 1887, c. 51, s. 188.

Service of
summons on
garni-see to
bind debt un-
til hearing,

194. In all cases under this Act, (except where an attaching order has been served, which is already provided for), service of the summons on the garnishee shall have the effect of attaching and binding in his hands (subject to the rights of other parties), the debt sought to be garnished, from the time of the service until a final decision made on the hearing of the summons; and any payment of the debt by the garnishee during such period, to any one other than the primary creditor, or into Court for satisfying his claim shall, to the extent of the claim be void, and the garnishee shall be liable to pay the same again to the extent required to satisfy such claim unless the Judge otherwise orders. R. S. O. 1887, c. 51, s. 189.

And after
judgment.

195. If judgment be given for the primary creditor against the garnishee, the debt garnished shall, unless the Judge otherwise orders, continue bound in the hands of the garnishee to satisfy the claim of the primary creditor; and payment in such case by the garnishee of the debt to the extent of the claim, either into Court or to the primary creditor, shall, to that extent, be a discharge to the garnishee, as between him and the primary debtor; and any payment of such debt, otherwise than as last aforesaid, except by leave of the Judge, shall be void; and the garnishee in such case shall be liable to pay the same again to satisfy the claim of the primary creditor. R. S. O. 1887, c. 51, s. 190.

Costs of
garnishee pro-
ceedings.

196. The garnishee shall not be liable for the costs of the proceeding, unless and in so far only as such costs are occasioned by his setting up a defence, which he knew, or ought to have known, was untenable; and, subject to this provision, the costs of all parties shall be in the discretion of the Judge. R. S. O. 1887, c. 51, s. 191.

Costs of prim-
ary creditor.

197. The Judge in any case brought to garnish a debt, may, in giving judgment on behalf of the primary creditor award the costs of the proceeding to the primary creditor out of the amount found due from the garnishee to the primary debtor. R. S. O. 1887, c. 51, s. 192.

198. Judgment shall not be given either against the primary debtor or the garnishee until the said summons and memorandum, with an affidavit of the due service of both on the proper parties, are filed, unless the Judge for special reasons orders otherwise. R. S. O. 1887, c. 51, s. 193.

Summons and memorandum of particulars to be filed.

199. No execution shall in any case issue to levy money owing from a garnishee until and so far only as such money has become fully due. R. S. O. 1887, c. 51, s. 194.

No execution * till garnishee's debt due.

200. Any party entitled to or interested in any money or debt attached or bound in the hands of the garnishee by a proceeding under this Act, may, at any time before actual payment thereof by the garnishee, apply to the Judge for an order (which the Judge is hereby authorized to make), to the effect that such money or debt be discharged from the claim of the primary creditor; and thenceforth such money or debt shall cease to be attached or bound for such claim; and such an application and such an order may also be made, if the Judge thinks fit, after the money or debt has been paid over by the garnishee, in which case all parties shall be remitted to their original rights in respect thereto, except as against the garnishee having already paid the debt or money, whose payment shall not be affected thereby, but shall be and remain an effectual discharge to him. R. S. O. 1887, c. 51, s. 195.

Application to discharge debt from attachment.

201.—(1) If the Judge, on the hearing of a summons under this Act, or on special application for the purpose, thinks proper, he may, before giving judgment against the garnishee, or at any time before actual payment by the garnishee, order such security to be given as may be approved by himself or the Clerk, by or on behalf of the primary creditor, for the repayment into Court to abide the Judge's order, in case a Judge's order is made for repayment.

Security from primary creditor.

(2) The bond shall be to the Clerk by his name of office, and shall enure for the benefit of all parties interested in or entitled to the money, and may by order of the Judge, and on such terms as to indemnity against costs and otherwise as he may impose, be sued in the name of the Clerk of the Court for the time being, for the benefit of the party entitled. R. S. O. 1887, c. 51, s. 196.

202. In case any one other than the primary creditor or primary debtor claims to be entitled to the debt owing from the garnishee, by assignment thereof or otherwise, the Judge, when adjudicating in any of the cases aforesaid, or by calling the proper parties before him by summons for the purpose, may enquire into and decide upon the claim, and may allow or give effect to it, or may hold it void as against the primary creditor for being a fraud upon creditors or otherwise, as the justice of the case may require; and for such purpose he may

Case of adverse claims.

require the attendance of such parties and witnesses (their conduct money being first paid) as he may think necessary. R. S. O. 1887, c. 51, s. 197.

Judge may postpone or adjourn proceedings.

203. The Judge may postpone or adjourn from time to time, the hearing and other proceedings in garnishee cases, to allow time for giving omitted notices of defence, or to produce further evidence, or for any other purpose; and may require service on, and notice to, other or additional parties, and may prescribe and devise forms for any proceeding, and may amend all summonses, memoranda, claims, accounts, notices and other papers and proceedings, and copies thereof as justice may require. R. S. O. 1887, c. 51, s. 198.

Debt attachment book.

204. The Clerks of the several Division Courts shall keep in their respective offices a debt attachment book, according to the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts, in which shall be correctly entered the names of parties, the dates, statements, amounts and other proceedings under this Act, as indicated by the said form; and copies of any entries made therein may be taken by any one on application free of charge. R. S. O. 1887, c. 51, s. 199.

NOTICE WHERE JURISDICTION DISPUTED.

Notice where jurisdiction of court disputed to be given.

205. In all cases where a defendant, primary debtor or garnishee intends to contest the jurisdiction of a Division Court to hear or determine any cause, matter or thing in such court, he shall leave with the Clerk of the Court, within eight days after the day of service of the summons on him (where the service is required to be ten days before the return), or within twelve days after the day of such service (where the service is required to be fifteen or twenty days before the return), a notice to the effect that he disputes the jurisdiction of the Court, and the Clerk shall forthwith give notice thereof to the plaintiff, or primary creditor, or his Solicitors or agents in the same way as notice of defence is now given, and in default of such notice disputing the jurisdiction of the Court, the same shall be considered as established and determined, and all proceedings may thereafter be taken as fully and effectually as if the said action or proceeding had been properly commenced, entered or taken in such Court; and the notice shall be in writing; and prohibition to a Division Court shall not lie in such action from any Court whatever, where the notice disputing the jurisdiction has not been duly given as aforesaid. R. S. O. 1887, c. 51, s. 176.

ARBITRATION.

Reference to arbitration by order of Judge or by consent.

206. The Judge may, in any case, with the consent of both parties to the action, or of their agents, order the same, with or without other matters in dispute between such parties, being within the jurisdiction of the Court, to be referred to the arbitra-

tion of such person or persons, and in such manner and on such terms as he thinks reasonable and just; or the parties to an action, may by writing, signed by themselves or their agents, agree to refer the matters in dispute to the arbitrament of a person named in the agreement, which shall be filed with the Clerk, and be entered on the Procedure Book as notices are entered. R. S. O. 1887, c. 51, s. 200.

207. The reference shall not be revocable by either party except with the consent of the Judge. R. S. O. 1887, c. 51, s. 201. Revocation of reference.

208. The award of the arbitrator or arbitrators or umpire shall be entered as the judgment in the cause, and shall be as binding and effectual as if given by the Judge. R. S. O. 1887, c. 51, s. 202. Award to be entered as the judgment.

209. The Judge, on application to him within fourteen days after the entry of the award, may, if he thinks fit, set aside the award, or may, with the consent of both parties, revoke the reference and order another reference to be made in the manner aforesaid. R. S. O. 1887, c. 51, s. 203. Judge may set aside award.

210. Any arbitrator may administer an oath or affirmation to the parties, and to all other persons examined before such arbitrator. R. S. O. 1887, c. 51, s. 204. Arbitrators may also administer oaths.

CONFESSIONS OF DEBT.

211. A Bailiff or Clerk, before or after action commenced, may take a confession or acknowledgment of debt from a debtor or defendant desirous of executing the same, which confession or acknowledgment shall be in writing and witnessed by the Bailiff or Clerk at the time of the taking thereof; and upon the production of the confession or acknowledgment to the Judge, and its being proved by the oath of the Bailiff or Clerk, judgment may be entered thereon. R. S. O. 1887, c. 51, s. 205. Clerks and bailiffs may take confessions.

212. The oath or affidavit shall state that the party making it has not received, and that he will not receive, anything from the plaintiff or defendant, or any other person, except his lawful fees, for taking the confession or acknowledgment, and that he has no interest in the demand sought to be recovered. R. S. O. 1887, c. 51, s. 206. Affidavit required in such cases.

COSTS.

213.—(1) The costs of any action or proceeding not otherwise provided for, shall be paid by or apportioned between the parties in such manner as the Judge thinks fit, and in cases where the plaintiff does not appear in person or by some per- Judge's authority as to costs.

son in his behalf, or appearing does not make proof of his demand to the satisfaction of the Judge, he may award to the defendant such costs and such further sum of money, by way of satisfaction for his trouble and attendance as he thinks proper, to be recovered as provided for in other cases under this Act, and in default of any special direction, the costs shall abide the event of the action, and execution may issue for the recovery thereof in like manner as for any debt adjudged in the court.

(2) In all actions or other proceedings brought in a Division Court in which the plaintiff fails to recover judgment by reason of the Court having no jurisdiction over the subject matter thereof, the Judge presiding in the Court shall have jurisdiction over the costs of the action or other proceeding, and may order by and to whom the same shall be paid, and the recovery of the costs awarded to be paid may be enforced by the same remedies as the costs in actions or proceedings within the proper competence of the Court are recoverable. R. S. O. 1887, c. 51, s. 207.

Counsel fees.

214. Where in a contested case for more than \$100, a counsel, solicitor or agent has been employed by the successful party in the conduct of the cause or defence, the Judge may, in his discretion, direct a fee of \$5, to be increased according to the difficulty and importance of the case, to a sum not exceeding \$10, to be taxed to the successful party, and the same, when so allowed, shall be taxed by the Clerk and added to the other costs. R. S. O. 1887, c. 51, s. 208.

Costs of witnesses in certain cases.

215. Where the defendant having disputed the plaintiff's claim afterwards and before the opening of the Court confesses judgment or pays the claim so short a time before the sitting of the Court that the plaintiff cannot in the ordinary way be notified thereof, and without such notice the plaintiff *bona fide* and reasonably incurs expenses in procuring witnesses or in attending at Court, the Judge may, in his discretion, order the defendant to pay such costs or such portion thereof as to the Judge seems just. R. S. O. 1887, c. 51, s. 209.

Costs in actions on judgments.

216. No costs shall be recoverable in an action brought in any Court for the recovery of a sum awarded by judgment in a Division Court without the order of the Judge of the Court in which the action is brought, on sufficient cause shewn. R. S. O. 1887, c. 51, s. 210.

PROCEEDINGS NOT TO BE SET ASIDE FOR MATTERS OF FORM.

Proceedings not to be quashed for want of form.

217. No order, verdict, judgment, or other proceeding had or made concerning any matter or thing under this Act, shall be quashed or vacated for any matter of form. R. S. O. 1887, c. 51, s. 211.

JUDGMENT AND EXECUTION.

218. In case the Judge makes an order for the payment of money, and in case of default of payment of the whole or of any part thereof, the party in whose favour the order has been made, may sue out execution against the goods and chattels of the party in default; and thereupon the Clerk, at the request of the party prosecuting the order, shall issue under the seal of the Court an execution to one of the Bailiffs of the Court, who by virtue thereof shall levy by distress and sale of the goods and chattels of such party, being within the county within which the Court was holden, such sum of money and costs (together with interest thereon from the date of the entry of the judgment) as have been so ordered, and remain due, and shall pay the same over to the said Clerk. R. S. O. 1887, c. 51, s. 212.

When money not paid, pursuant to order, execution to issue.

219. If there are cross judgments between the parties, the party only who has obtained judgment for the larger sum shall have execution, and then only for the balance over the smaller judgment, and satisfaction for the remainder and also satisfaction on the judgment for the smaller sum shall be entered; and if both sums are equal, satisfaction shall be entered upon both judgments. R. S. O. 1887, c. 51, s. 213.

Cross judgments may be set off.

220. Except in actions brought under section 85 of this Act, no writ in the nature of a writ of execution or attachment shall be executed out of the limits of the County over which the Judge of the Court from which the writ issues has jurisdiction. R. S. O. 1887, c. 51, s. 214.

Writs of execution where to be executed.

221. In case a party against whom a judgment has been entered up removes to another County without satisfying the judgment, the County Judge of the County to which the party has removed may upon the production of a copy of the judgment duly certified by the Judge of the County in which the judgment has been entered, order an execution for the debt and costs, awarded by the judgment, to issue against such party. R. S. O. 1887, c. 51, s. 215.

If party removes to another county, execution obtainable in such county.

222. If the party against whom an execution has been awarded, pays or tenders to the Clerk or Bailiff of the Division Court out of which the execution issued, before an actual sale of his goods and chattels, the amount to be levied under such execution, or such part thereof as the party in whose favour the execution has been awarded agrees to accept in full of his debt, together with the fees to be levied, the execution shall thereupon be superseded, and the goods shall be released and restored to such party. R. S. O. 1887, c. 51, s. 216.

Effect of payment of execution before sale.

223.—(1) The Clerk of a Division Court shall, upon the application of a plaintiff or defendant (or his agent), having an

Clerk of any court in which judgment entered to pre-

pare transcript thereof, to transmit to any other Division Court.

unsatisfied judgment in his favour in such Court, prepare a transcript of the entry of the judgment and shall send the same to the Clerk of any other Division Court, whether in the same or any other County, with a certificate at the foot thereof signed by the Clerk who gives the same, and sealed with the seal of the Court of which he is Clerk, and addressed to the Clerk of the Court to whom it is intended to be delivered, and stating the amount unpaid upon the judgment and the date at which the same was recovered; and the Clerk to whom the certificate is addressed shall, on the receipt of the transcript and certificate, enter the transcript in a book to be kept in his office for the purpose, and the amount due on the judgment according to the certificate; and all proceedings may be taken for the enforcing and collecting the judgment in such last mentioned Division Court, by the officers thereof, that could be had or taken for the like purpose upon judgments recovered in any Division Court. R. S. O. 1887, c. 51, s. 217.

Proceedings stayed in office from which transcript of judgment is issued.

(2) After a transcript has been issued under this section, no further proceedings shall be had in the Court from which the transcript issued without an order from the Judge, unless the creditor, his solicitor or agent, shall make and file with the Clerk of the said Court an affidavit stating; (1) That the judgment remains unsatisfied in whole or in part; (2) That the execution issued in the division to which the transcript was issued has been returned *nulla bona*, or that he believes the defendant has not sufficient goods in that Division to satisfy the said judgment, and upon such affidavit being filed, the Clerk may issue such other process as the creditor may direct. 52 V. c. 12, s. 24.

Enforcing claims under Creditors' Relief Act in Division Courts. Rev. Stat. c. 78.

224. Where any Division Court judgment or execution has been or shall hereafter be filed with any Sheriff under *The Creditors' Relief Act*, or a certificate for any claim within the jurisdiction of the Division Court, and the same is not paid in full, and the Sheriff is unable to make the money thereon, the creditor may obtain a return thereof from the Sheriff according to the facts, and file the same with the Clerk of the Division Court in which the judgment was recovered, or in the place where the cause of action arose, or the debtor, or one of the debtors, if more than one, resided, and the Clerk of the Division Court shall enter the same in his proper books, and it shall thereupon become a judgment of the said Court for the unpaid balance due thereon as appearing by the Sheriff's return, and the claim may be enforced in the same manner as any other judgment of the Division Court. 51 V. c. 11, s. 4.

Clerk to give notice to plaintiff of return of *nulla bona* in case of execution on a transcript of judgment.

225. The Clerk of every Division Court shall, immediately after *nulla bona* has been returned to an execution issued on a transcript of judgment received from another Court, forward through the post office to the plaintiff, if his address is

known, or to the Clerk who issued the transcript, at his post-office address, a notice, enclosed in an envelope, informing him of the date at which the execution issued, the date at which the same was returned by the Bailiff, and the return made thereto; the notice thus sent shall be prepaid and registered, and the Clerk shall obtain and file among the papers in the action the post office certificate of the registration, and the postage and charge for registration shall be costs in the cause: the absence from amongst the papers in the action of the certificate of registration shall be *prima facie* evidence against the Clerk that the notice has not been forwarded. R. S. O. 1887, c. 51, s. 218.

226. In case of the death of either or both of the parties to a judgment in a Division Court, the party in whose favour the judgment has been entered, or his personal representative in case of his death, may revive the judgment against the other party, or his personal representative in case of his death, and may issue execution thereon in conformity with any rules which apply to the Division Court in that behalf. R. S. O. 1887, c. 51, s. 219.

Revivor of judgment in case of death of party.

227. Every execution shall be dated on the day of its issue, and shall be returnable within thirty days from the date thereof, but may from time to time, be renewed by the Clerk, at the instance of the execution creditor, for six months from the date of such renewal, in the same manner and with the same effect as like writs from the Courts of Record may be renewed under the provisions of *The Execution Act*. R. S. O. 1887, c. 51, s. 220.

Execution, when dated and returnable.

Rev. Stat. c. 77.

228. Where the books, papers and other matters in the possession of any Clerk, by virtue of or appertaining to his office, become the property of the County Crown Attorney, under section 52 of this Act, or in case of the suspension of a Clerk, the County Crown Attorney may, during such suspension, or until the appointment and qualification of another Clerk, when the same shall be presented for that purpose, renew any writ of execution issued out of such court, which may lawfully be renewed, and the renewal shall have the same force and effect as if the same had been renewed by the Clerk of the Court, and he shall be entitled to the same fees therefor as a Clerk would be entitled to for the like services. R. S. O. 1887, c. 51, s. 221.

Renewal of executions by County Attorney in certain cases.

229. In case the Judge is satisfied upon application on oath made to him by the party in whose favour a judgment has been given, or is satisfied by other testimony that such party will be in danger of losing the amount of the judgment if compelled to wait till the day appointed for the payment thereof

Judge may order an execution to issue before regular day.

before any execution can issue, the Judge may order an execution to issue at such time as he thinks fit. R. S. O. 1887, c. 51, s. 222.

Executions
against lands.

230.—(1) In case an execution against goods is returned *nulla bona* by a Bailiff in the Court in which the judgment was recovered, and the sum remaining unsatisfied on the judgment amounts to the sum of \$40, the party in whose favour the judgment was entered may sue out an execution against the lands of the party in default, and the Clerk of the Court in which such judgment was obtained shall, at the request of the party prosecuting the judgment, issue under the seal of the Court a writ of execution against the lands of the party in default to the Sheriff of the County in which the said return of *nulla bona* was made, or to the Sheriff of any other County in this Province in which lands of the party in default are situate and which writ may be in the form contained in Schedule D. 57 V. c. 23, s. 8 (1 part, 5, 6).

(2) The Sheriff, on receipt of such execution, shall act upon the same, and it shall have the same force and effect against the lands of the party in default as an execution issued from the County Court. 57 V. c. 23, s. 8 (1 part).

Sheriff's re-
turn to be
made to Clerk.

(3) The Sheriff receiving such writ of execution shall make a return thereof, and pay any money made thereon, to the Clerk of the Court out of which such execution issued. 57 V. c. 23, s. 8 (3).

(4) Until such judgment is fully paid and satisfied, the party entitled to the same may, subject to section 231, pursue the same remedy for the recovery thereof, or of any balance due thereon, as if the judgment had been obtained in the County Court. 57 V. c. 23, s. 8 (2).

Further pro-
ceedings after
execution
against lands
issued.

231. After an execution has issued against lands under the preceding section, no further proceedings shall be had in the Court from which the said execution issued, without either an order of the Judge, or unless the judgment creditor, his attorney or agent, shall make and file with the Clerk of the Court from which the said execution issued an affidavit stating, (1) That the judgment remains unsatisfied in whole or in part; (2) The amount, if any, which has been paid upon said judgment; (3) That execution against lands has been returned unsatisfied, or that he believes the judgment debtor has not sufficient lands in the County in which said execution against lands was issued to satisfy the said judgment. 57 V. c. 23, s. 8 (4).

Fees on writ
against lands.

232. On every writ of execution issued from a Division Court against lands, the Sheriff shall be entitled to the same fees as upon a writ of execution issued against lands and tenements from a County Court. 58 V. c. 14, s. 2.

233. On any execution against goods and chattels, the officer to whom the same is directed may seize and sell the interest or equity of redemption in any goods or chattels of the party against whom the writ has issued, and the sale shall convey whatever interest the mortgagor had in the goods and chattels at the time of the seizure. R. S. O. 1887, c. 51, s. 227.

The interest of a mortgagor in goods mortgaged may be sold in execution.

234. Every Bailiff or officer having an execution against the goods and chattels of any person, may by virtue thereof seize and take any of the goods and chattels of such person, except those which are by law exempt from seizure, and may also seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money belonging to such person. R. S. O. 1887, c. 51, s. 228.

What may be seized under execution against goods and chattels.

235. The Bailiff shall for the benefit of the plaintiff, hold any cheques, bills of exchange, promissory notes, bonds, specialties, or other securities for money so seized or taken as aforesaid, as security for the amount directed to be levied by the execution, or so much thereof as has not been otherwise levied or raised, and the plaintiff, when the time of payment thereof has arrived, may sue in the name of the defendant, or in the name of any person in whose name the defendant might have sued, for the recovery of the sum or sums secured or made payable thereby. R. S. O. 1887, c. 51, s. 229.

Bailiff to hold cheques, notes, etc., seized under execution for benefit of plaintiff.

236. The defendant in the original cause shall not discharge such action in any way without the consent of the plaintiff or of the Judge. R. S. O. 1887, c. 51, s. 230.

Defendant in original cause not to discharge action.

237. The party who desires to enforce payment of a security seized or taken as aforesaid, shall first pay or secure all costs that may attend the proceedings; and the moneys realized, or a sufficient part thereof, shall be paid over by the officer receiving the same to apply on the plaintiff's demand, and the overplus, if any, shall be forthwith paid to the defendant in the original action, under the direction of the Judge. R. S. O. 1887, c. 51, s. 231.

Party enforcing securities seized must secure costs.

238. The Bailiff, after seizing goods and chattels by virtue of an execution, shall indorse on the execution the date of the seizure, and shall immediately, and at least eight days before the time appointed for the sale, give public notice by advertisement signed by himself, and put up at three of the most public places in the division where the goods and chattels have been taken, of the time and place within the division when and where they will be exposed to sale; and the notice shall describe the goods and chattels taken. R. S. O. 1887, c. 51, s. 232.

Bailiff after seizure of goods to indorse date of seizure and give notice of sale.

Goods not to be sold till eight days after seizure.

239. The goods so taken shall not be sold until the expiration of eight days at least next after the seizure thereof, unless upon the request in writing under the hand of the party whose goods have been seized. R. S. O. 1887, c. 51, s. 233.

Bailiff and other officers not to purchase goods seized.

240. No Clerk, Bailiff or other officer of a Division Court shall, directly or indirectly, purchase any goods or chattels at any sale made by any Division Court Bailiff under execution, and every such purchase shall be absolutely void. R. S. O. 1887, c. 51, s. 234. [*See also Cap. 17, sec. 35.*]

Right of bailiff to fees on executions, etc., when action settled or assignment made.

241. Where in any Division Court action a Bailiff has seized goods under and by virtue of a writ of execution or attachment, and the action is afterwards settled between the parties thereto, or the defendant in the action makes an assignment for the general benefit of his creditors, the said Bailiff shall, until his fees and disbursements upon the said writ are fully paid and satisfied, have a lien therefor upon so much of the said goods as will reasonably satisfy the same, but in the event of a dispute as to the proper amount of said fees and disbursements, the amount claimed therefor may be paid into Court until the proper amount shall be certified by the Judge, and on such payment into Court the said lien shall cease and determine. 52 V. c. 12, s. 2.

DEATH, ETC., OF BAILIFF WHILE EXECUTION OR ATTACHMENT UNEXECUTED.

Continuation of proceedings after death of bailiff.

242. In the event of the death, resignation or removal from office of a Bailiff of a Division Court, after action taken by him under any writ of execution or warrant of attachment as Bailiff, the proceedings may be continued by the Bailiff, his successor, and in his own name, as fully and effectually as if such action had been so taken by himself: the benefit of all sureties given to the Bailiff in his official capacity shall inure to his successor in office. 60 V. c. 14, s. 16.

EXAMINATION OF JUDGMENT DEBTORS.

Judgment debtors may be examined at the instance of their creditors.

243.—(1) A party having an unsatisfied judgment or order in a Division Court, for the payment of any debt, damages or costs, may procure from the Court wherein the judgment has been obtained, if the defendant resides or carries on his business within the County in which the Division is situate, or from any Division Court into which the judgment has been removed under section 223 of this Act and within the limits of which Division Court the defendant resides or carries on his business, a summons in the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts, and the summons shall be served personally upon the person to whom the same is directed, requiring him to appear at a time and place therein expressed, to answer such things as are

therein named, and if the defendant appears in pursuance thereof, he may be examined upon oath touching his estate and effects, and the manner and circumstances under which he contracted the debt or incurred the damages or liability, which formed the subject of the action and as to the means and expectation he then had, and as to the property and means he still has of discharging the debt, damages or liability, and as to the disposal he has made of any property: Provided, nevertheless, that before the summons shall issue, the plaintiff, his solicitor or agent, shall make and file with the Clerk of the Court from which the summons may issue an affidavit stating,

Affidavit required before judgment summons.

(a) That the judgment remains unsatisfied in the whole or in part;

(b) That the deponent believes that the defendant sought to be examined is able to pay the amount due in respect of the judgment or some part thereof; or,

(c) That the defendant sought to be examined has rendered himself liable to be committed to gaol under this Act. R. S. O. 1887, c. 51, s. 235; 57 V. c. 23, s. 15.

(2) The person obtaining the summons and all witnesses whom the Judge thinks requisite, may be examined upon oath, touching the inquiries authorized to be made as aforesaid. R. S. O. 1887, c. 51, s. 236.

Examination of witnesses.

244. The examination shall be held in the Judge's chamber, unless the Judge otherwise directs. R. S. O. 1887, c. 51, s. 237.

The examination to be in Judge's chamber.

245. The costs of the summons and of all proceedings thereon shall be deemed costs in the cause, unless the Judge otherwise directs. R. S. O. 1887, c. 51, s. 238.

Costs.

246. In case a party has, after his examination, been discharged by the Judge, no further summons shall issue out of the same Division Court at the suit of the same or any other creditor, without an affidavit satisfying the Judge upon facts not before the court upon the examination, that the party had not then made a full disclosure of his estate, effects and debts, or an affidavit satisfying the Judge that since the examination the party has acquired the means of paying. R. S. O. 1887, c. 51, s. 239.

Party examined and discharged not to be again summoned.

Exception.

247. If the party so summoned—

1. Does not attend as required by the summons, or allege a sufficient reason for not attending; or
2. If he attends and refuses to be sworn or to declare any of the things aforesaid; or

When judgment debtor may be committed to gaol.

3. If he does not make answer touching the same to the satisfaction of the Judge ; or

4. If it appears to the Judge, either by the examination of the party or by other evidence, that the party,

(a) Obtained credit from the plaintiff or incurred the debt or liability under false pretences, or by means of fraud or breach of trust ; or

(b) Has made or caused to be made any gift, delivery or transfer of any property, or has removed or concealed the same with intent to defraud his creditors or any of them ; or

5. If it appears to the satisfaction of the Judge that the party had when summoned, or, since the judgment was obtained against him, has had sufficient means and ability to pay the debt or damages, or costs recovered against him, either altogether or by the instalments which the Court in which the judgment was obtained has ordered, and if he refuses or neglected to pay the same at the time ordered, whether before or after the return of the summons, the Judge may, if he thinks fit, order such party to be committed to the common gaol of the county in which the party so summoned resides or carries on his business, for any period not exceeding forty days. R. S. O. 1887, c. 51, s. 240 ; 51 V. c. 10, s. 3.

In what cases only the party summoned may be committed for non-attendance : costs allowed him in certain cases.

248. A party failing to attend according to the requirements of such summons, shall not be liable to be committed to gaol for the default, unless the Judge is satisfied that such non-attendance is wilful, or that the party has failed to attend after being so summoned ; and if at the hearing it appears to the Judge, upon the examination of the party or otherwise, that he ought not to have been so summoned, or if at the hearing the judgment creditor does not appear, the Judge shall award the party summoned a sum of money by way of compensation for his trouble and attendance, to be recovered against the judgment creditor in the same manner as any other judgment of the Court. R. S. O. 1887, c. 51, s. 241.

Warrant of Commitment.

249. Where an order of commitment as aforesaid has been made, the Clerk of the Court shall issue, under the seal of the Court, a warrant of commitment directed to the Bailiff of any Division Court within the county, and the Bailiff may by virtue of the warrant take the person against whom the order has been made. R. S. O. 1887, c. 51, s. 242.

Constables, etc., to execute warrants.

250. All Constables and other Peace Officers within their respective jurisdictions shall aid in the execution of every such warrant, and the Gaoler or Keeper of the gaol of the County in which the warrant has been issued, shall receive and keep the defendant therein until discharged under the provisions of this Act or otherwise by due course of law. R. S. O. 1887, c. 51, s. 243.

251. Any person imprisoned under this Act, who has satisfied the debt or demand, or any instalment thereof payable, and the costs remaining due at the time of the order of imprisonment being made, together with the costs of obtaining the order, and all subsequent costs, shall, upon the certificate of such satisfaction, signed by the Clerk of the Court, or by leave of the Judge of the Court in which the order of imprisonment was made, be discharged out of custody. R. S. O. 1887, c. 51, s. 244.

When debtor in custody shall be discharged.

252. The Judge before whom the summons is heard may, if he thinks fit, rescind or alter any order for payment previously made against a defendant so summoned before him, and may make any further or other order, either for the payment of the whole of the debt or damages recovered and costs forthwith, or by instalments, or in any other manner that he thinks reasonable and just. R. S. O. 1887, c. 51, s. 245.

Judge may rescind order and may alter and modify the same.

253. In case the defendant in an action brought in a Division Court has been personally served with the summons to appear, or personally appears at the trial, and judgment is given against him, the Judge, at the hearing of the cause or at an adjournment thereof, may examine the defendant and the plaintiff and any other person touching the several things hereinbefore mentioned, and may commit the defendant to prison, and make an order in like manner as he might have done in case the plaintiff had obtained a summons for that purpose after judgment. R. S. O. 1887, c. 51, s. 246.

When defendant may be examined at hearing as to his means, etc.

254. No imprisonment under this Act shall extinguish the debt or other cause of action on which a judgment has been obtained, or protect the defendant from being summoned anew and imprisoned for any new fraud or other default rendering him liable to be imprisoned under this Act, or deprive the plaintiff of any right to take out execution against the defendant. R. S. O. 1887, c. 51, s. 247.

Debt not to be extinguished by imprisonment.

255. In cases in which judgment shall be recovered against a garnishee under sections 190 or 193 of this Act, such garnishee shall be liable to be examined as a judgment debtor under sections 243 to 254 inclusive of this Act. 57 V. c. 23, s. 18.

Similar examination of garnishee.

256. Every Division Court Clerk shall make a return to the Inspector of Division Courts on or before the 15th day of January in every year, showing the number of judgment debtors who, during the twelve months ending the 31st day of December previously, were ordered to be committed under each of the five heads mentioned in section 247 of this Act. 55 V. c. 11, s. 4.

Annual return of commitment of judgment debtors.

ABSCONDING DEBTORS.

Absconding
debtors.

257. In case a person, being indebted in a sum not exceeding \$100, nor less than \$4, for any debt or damages arising upon a contract, express or implied, or upon a judgment,

1. Absconds from this Province, leaving personal property liable to seizure under execution for debt in any County in Ontario, or

2. Attempts to remove such personal property, either out of Ontario or from one County to another therein, or

3. Keeps concealed in any County to avoid service of process, and in case any creditor of such person, his servant or agent makes and produces an affidavit or affirmation to the purport of the form prescribed by the General Rules or Orders from time to time in force relating to Division Courts, and in case the affidavit or affirmation be filed with the Clerk of any Division Court in Ontario, then the Clerk upon the application of the creditor, his servant or agent, shall issue a warrant under the hand and seal of the Clerk, in the form prescribed by such General Rules and Orders, directed to the Bailiff of the Division Court within whose division the same is issued, or to a Constable of the County, commanding the Bailiff or Constable to attach, seize, take and safely keep all the personal estate and effects of the absconding, removing or concealed person within the County, liable to seizure under execution for debt, or a sufficient portion thereof to secure the sum mentioned in the warrant, with the costs of the action, and to return the warrant forthwith to the Court out of which the same issued. R. S. O. 1887, c. 51, s. 249.

[*As to certain claims between \$4 and \$200, see sec. 72 (3).*]

When County
Judge or
Justice
of the Peace
may issue
attachments,
etc.

258. Any County Judge, or a Justice of the Peace for the County, may take the affidavit in the last preceding section mentioned, and upon the same being filed with the Judge or Justice, the Judge or Justice may issue a warrant under his hand and seal in the form prescribed as aforesaid, and the Judge or Justice shall forthwith transmit the affidavit to the Clerk of the Division Court within whose division the same was made or taken, to be by him filed and kept among the papers in the cause. R. S. O. 1887, c. 51, s. 250.

Bailiff or con-
stable to seize
and make in-
ventory.

259. Upon receipt of the warrant by the Bailiff or Constable, and upon being paid his lawful fees, including the fees of appraisement, the Bailiff or Constable shall forthwith execute the warrant, and make a true inventory of all the estate and effects which he seizes and takes by virtue thereof, and shall within twenty-four hours after seizure, call to his aid two freeholders, who being first sworn by him to appraise the personal estate and effects so seized, shall then appraise the same and forthwith return the inventory attached to the appraisement to the Clerk of the Court in which the warrant is made returnable. R. S. O. 1887, c. 51, s. 251.

260. In any case commenced by attachment in a Division Court, the proceedings may be conducted to judgment and execution in the Division Court of the division within which the warrant of attachment issued. R. S. O. 1887, c. 51, s. 252.

Proceedings may be continued in court out of which attachment issued.

261. Where proceedings have been commenced in any case before the issue of an attachment, the proceedings may be continued to judgment and execution in the Division Court within which the proceedings were commenced. R. S. O. 1887, c. 51, s. 253.

Proceedings commenced before attachment to continue.

262. The property seized upon a warrant of attachment shall be liable to seizure and sale under the execution to be issued upon the judgment, or in case the property was perishable, and has been sold, the proceeds thereof shall be applied in satisfaction of the judgment. R. S. O. 1887, c. 51, s. 254.

Property attached may be sold under execution.

263. No plaintiff shall divide any cause of action into two or more actions for the purpose of bringing the same within the provisions of the six preceding sections, but a plaintiff having a cause of action above the value of \$100 and not exceeding \$200 for which an attachment might be issued if the same were not above the value of \$100 may abandon the excess, and upon proving his case, may recover to an amount not exceeding \$100 and the judgment of the Court in such case shall be in full discharge of all demands in respect of such cause of action, and the entry of judgment therein shall be made accordingly. R. S. O. 1887, c. 51, s. 255.

Plaintiff not to divide cause of action.

264. In case several attachments issue against any party, then subject to the provisions contained in section 7 of *The Act respecting Absconding Debtors*, the proceeds of the goods and chattels attached shall not be paid over to the attaching creditor or creditors according to priority, but shall be ratably distributed among such of the creditors suing out such attachments as obtain judgment against the debtor, in proportion to the amount really due upon such judgments; and no distribution shall take place until reasonable time, in the opinion of the Judge, has been allowed to the several creditors to proceed to judgment. R. S. O. 1887, c. 51, s. 256.

If several attachments issued. Rev. Stat. c. 79.

265. Where the goods and chattels are insufficient to satisfy the claims of all of the attaching creditors, no such creditor shall be allowed to share unless he sued out his attachment, and within one month next after the issue of the first attachment, gave notice thereof to the Clerk of the Court out of which the first attachment issued, or in which it was made returnable. R. S. O. 1887, c. 51, s. 257.

If goods insufficient to satisfy claims of all attaching creditors.

266.—(1) All the property seized under the provisions of the preceding nine sections, shall be and remain in the custody and possession of the Bailiff to whom the warrant of attachment

Custody of goods seized under attachment.

is issued, and he shall take and keep the same until disposed of by law, and he shall be allowed all necessary disbursements and expenses for keeping the same.

(2) Where the property is seized under the provisions of the preceding nine sections by a County Constable, it shall be forthwith handed over to the custody and possession of the Bailiff of the Court, out of which the warrant of attachment issued, or into which it was made returnable; and such Bailiff shall take the same into his charge and keeping and shall be allowed all necessary disbursements for keeping the same. R. S. O. 1887, c. 51, s. 258.

On what terms
goods attach-
ed may be re-
stored.

267. In case a person against whose estate or effects such attachment has issued, or any person on his behalf, at any time prior to the recovery of judgment in the cause, executes and tenders to the creditor who sued out the attachment, and files in the Court to which the attachment has been returned a bond with good and sufficient sureties, to be approved of by the Judge or Clerk, binding the obligors, jointly and severally, in double the amount claimed, with a condition that the debtor (naming him) will, in the event of the claim being proved and judgment recovered thereon, as in other cases where proceedings have been commenced against the person, pay the same, or the value of the property so taken and seized, to the claimant or claimants, or produce the property whenever thereunto required, to satisfy the judgment, the Clerk may supersede the attachment, and the property attached shall then be restored. R. S. O. 1887, c. 51, s. 259.

Sale of goods
if the debtor
does not
appear and
give security.

268. If within one month from the seizure as aforesaid, the person against whom the attachment issued, or some one on his behalf, does not appear and give such bond, execution may issue as soon as judgment has been obtained upon the claim or claims, and the property seized upon the attachment, or enough thereof to satisfy the judgment and costs may be sold for the satisfaction thereof, according to law, or if the property has been previously sold as perishable under the provisions herein-after made, enough of the proceeds thereof may be applied to satisfy the judgment and costs. R. S. O. 1887, c. 51, s. 260.

Perishable
goods.

Where attach-
ment issues
and summons
is served
personally.

269. Where the property of any person has been seized under a warrant of attachment as aforesaid, and a summons has been personally served on such person before seizure then the trial of the cause shall be proceeded with as if no such warrant of attachment had been issued, and after judgment execution shall forthwith issue unless otherwise ordered by the Judge. R. S. O. 1887, c. 51, s. 261.

Proceedings
against
debtors where
process not
previously
served.

270. Subject to the provisions contained in sections 5 and 7 of *The Act respecting Absconding Debtors*, in order to proceed in the recovery of any debt due by the person against

whose property an attachment issues, where process has not been previously served, the same may be served either personally or by leaving a copy at the last place of abode, trade or dealing of the defendant, with any person there dwelling, or by leaving the same at such place if no person be there found; and in every case all subsequent proceedings shall be conducted according to the usual course of practice in Division Courts; and if it appears to the satisfaction of the Judge on the trial, upon affidavit, or other sufficient proof, that the creditor who sued out an attachment had not reasonable or probable cause for taking the proceedings, the Judge shall order that no costs be allowed to the creditor or plaintiff and no costs in such case shall be recovered in the cause. R. S. O. 1887, c. 51, s. 262.

271. Subject to the provisions contained in sections 5 and 7 of *The Act respecting Absconding Debtors*, in case horses, cattle, sheep or other perishable goods have been taken upon an attachment, the Bailiff of the Court who has the custody or keeping thereof (the same having been first appraised, in the manner in section 259 of this Act mentioned), may at the request of the plaintiff who sued out the warrant of attachment, expose and sell the same at public auction, to the highest bidder, giving at least eight days' notice at the office of the Bailiff of the said Court, and at two other public places within his division, of the time and place of the sale, if the articles seized will admit of being so long kept, otherwise he may sell the same at his discretion. R. S. O. 1887, c. 51, s. 263.

272. It shall not be compulsory upon the Bailiff or Constable to seize, or upon the Bailiff to sell such perishable goods, until the party who sued out the warrant of attachment has given a bond to the defendant therein, with good and sufficient sureties in double the amount of the appraised value of the goods, conditioned that the party directing the seizure and sale will repay the value thereof, together with all costs and damages incurred in consequence of the seizure and sale, in case judgment be not obtained for the party who sued out such attachment, and the bond shall be filed with the papers in the cause. R. S. O. 1887, c. 51, s. 264.

273. The moneys so made shall be by the Bailiff paid over to the Clerk, and the residue, if any, after satisfying such judgments, with the costs thereupon, shall be delivered to the defendant or his agent, or to any person in whose custody the goods were found; and the responsibility of the Clerk in respect of such property shall cease. R.S.O. 1887, c. 51, s. 265.

274. A bond given in the course of any proceeding under this Act may be sued in any Division Court of the County wherein the same was executed, and proceedings may be there-

Rev. Stat.
c. 79.

Perishable
goods how
disposed of.
Rev. Stat.
c. 79.

Creditors be-
fore sale to
give bond to
indemnify the
defendant.

Application
of proceeds of
sale.

Enforcing
security given
under Act.

upon carried on to judgment and execution in such Court, notwithstanding the penalty contained in the bond may exceed the sum of \$100. R. S. O. 1887, c. 51, s. 266.

Delivery of
bond to party
entitled.

275. Every such bond shall be delivered up to the party entitled to the same, by the order and at the discretion of the Judge of the Court, to be enforced or cancelled as the case may require. R. S. O. 1887, c. 51, s. 267.

CLAIMS OF LANDLORDS AND OTHERS IN RESPECT TO GOODS SEIZED.

Interpretation
of "Land-
lord,"

276.—(1) In the next six sections, the word "landlord" shall include the person entitled to the immediate reversion of the land, or, if the property be held in joint tenancy, coparcenary or tenancy in common, shall include any one of the persons entitled to the reversion; and

"Agent."

(2) The word "agent" shall mean any person usually employed by the landlord in the letting of lands or in the collection of the rents thereof, or specially authorized to act in any particular matter by writing under the hand of the landlord. R. S. O. 1887, c. 51, s. 268.

Claims of
landlords, etc.,
to goods seized
in execution,
how to be adjusted.

277.—(1) In case a claim be made to or in respect of any goods or chattels, property or security, taken in execution or attached under the process of a Division Court, or in respect of the proceeds or value thereof, by a landlord for rent, or by a person not being the party against whom the process issued, then, subject to the provisions of *The Act respecting Absconding Debtors*, the Clerk of the Court, upon application of the officer charged with the execution of the process, may, whether before or after an action has been brought against such officer, issue a summons calling before the Court out of which the process issued, or before the Court holden for the division in which the seizure under the process was made, as well the party who issued the process as the party making the claim, and thereupon any action which has been brought in the High Court or in a local or inferior Court in respect of the claim, shall be stayed.

Rev. Stat.
c. 79.

Costs.

(2) The Court in which the action has been brought, or a Judge thereof, on proof of the issue of the summons, and that the goods and chattels or property or security were so taken in execution or upon attachment, may order the party bringing the action to pay the costs of all proceedings had upon the action after the issue of the summons out of the Division Court.

County Judge
to adjudicate
on claims.

(3) The County Judge having jurisdiction in such Division Court shall adjudicate upon the claim, and make such order between the parties in respect thereof, and of the costs of the proceedings as to him seems fit; and shall also adjudicate between the parties, or either of them, and the officer or Bailiff

in respect of any damage or claim of or to damages arising or capable of arising out of the execution of the process by the officer or Bailiff, and make such order in respect thereof, and of the costs of any proceedings as to the Judge shall seem fit; and the order shall be enforced in like manner as an order made in an action brought in the Division Court, and shall be final and conclusive between the parties and as between them and the officer or Bailiff, except that upon the application of either the attaching or execution creditor or the claimant, or the officer or Bailiff, within fourteen days after the trial, the Judge may grant a new trial upon good grounds shewn, as in other cases under this Act, upon such terms as he thinks reasonable, and may in the meantime stay proceedings.

(4) In case the Bailiff has more than one execution or attachment at the suit or instance of different persons against the same property claimed as aforesaid, it shall not be necessary for the Bailiff to make a separate application on each execution or attachment; but he may use the names of such execution or attaching creditors collectively in such application, and the summons may issue in the name of the creditors as plaintiffs.

Where more than one execution or attachment has issued.

(5) Under the provisions of subsection 3 of this section the Judge shall have power to adjudicate upon and award damages, even though the amount of the damages claimed, found or awarded should be beyond the jurisdiction of a Division Court.

Power to award damages.

(6) In respect of any damages claimed, or of any judgment, order or finding under the provisions of subsections 3 and 5 of this section the parties and the Bailiff applying, shall have the same rights of defence and counter-claim, including in all cases the right and liability to costs, as would exist had an action, within the jurisdiction of the Division Court, been brought to recover the said damages. R. S. O. 1887, c. 51, s. 269.

Rights of parties as to defence and as to costs.

278.—(1) So much of the Act passed in the 8th year of the reign of Queen Anne, intituled *An Act for the better security of Rents and to prevent Frauds Committed by Tenants*, as relates to the liability of goods taken by virtue of any execution, shall not be deemed to apply to goods taken in execution under the process of any Division Court, but the landlord of a tenement in which any such goods are so taken may, by writing under his hand or under the hand of his agent, stating the terms of holding and the rent payable for the same, and delivered to the Bailiff making the levy, claim any rent in arrear then due to him, not exceeding the rent of four weeks when the tenement has been let by the week, and not exceeding the rent accruing due in two terms of payment where the tenement has been let for any other term less than a year, and not exceeding in any case the rent accruing due in one year. R. S. O. 1887, c. 51, s. 270.

Provisions in relation to rents due to landlords.

8 Anne, c. 14

(2) Notice of the said claim may be given at any time before the return of the execution, notwithstanding that the goods may in the meantime have been removed from the premises upon which they were seized, and when the goods of a tenant are sold within ten days after the seizure, the money realized shall remain in court until the expiration of the said term of ten days to answer the claim of the landlord, and in cases where the money has been paid into court the notice may be directed to the Clerk with like effect as if given to the Bailiff before the sale of the goods so seized. 60 V. c. 14, s. 10.

How the
bailiff is to
proceed.

279. In case of any such claim being so made, the Bailiff making the levy shall distrain as well for the amount of the rent claimed, and the costs of the additional distress, as for the amount of money and costs for which the warrant of execution has issued, and shall not sell the same, or any part thereof, until after the expiration of at least eight days next following after the distress made. R. S. O. 1887, c. 51, s. 271.

Fees of bailiff
in such cases.

Rev. Stat.
c. 75.

280. For every additional distress for rent in arrear, the Bailiff of the Court shall be entitled to have as the costs of the distress, instead of the fees allowed by this Act, the fees allowed by *The Act respecting Costs of Distress or Seizure of Chattels*. R. S. O. 1887, c. 51, s. 272.

If replevin
made.

281. If a replevin is made of the goods distrained, so much of the goods taken under the warrant of execution shall be sold as will satisfy the money and costs for which the warrant issued, and the costs of the sale, and the surplus of the sale and the goods so distrained shall be returned as in other cases of distress for rent and replevin thereof. R. S. O. 1887, c. 51, s. 273.

When land-
lord's claim to
rent is to be
first paid.

282. No execution creditor under this Act shall have his debt satisfied out of the proceeds of the execution and distress, or of the execution only, where the tenant replevies, until the landlord who conforms to the provisions of this Act has been paid the rent in arrear for the periods hereinbefore mentioned. R. S. O. 1887, c. 51, s. 274.

OFFENCES AND PENALTIES.

Contempt of Court.

Contempt of
court.

283. If a person wilfully insults the Judge or acting Judge or any officer of a Division Court during his sitting or attendance in Court, or interrupts the proceedings of the Court, any Bailiff or officer of the Court may, by order of such Judge, take the offender into custody, and such Judge may impose upon the offender a fine not exceeding \$20, and in default of imme-

diate payment thereof, the said Judge may by warrant under his hand and seal commit the offender to the Common Gaol of the County for a period not exceeding one month, unless the fine and costs, with the expense attending the commitment, are sooner paid. R. S. O. 1887, c. 51, s. 275.

Resisting Officers.

284. If any officer or Bailiff (or his deputy or assistant) be assaulted while in the execution of his duty, or if any rescue be made or attempted to be made of any property seized under process of the Court, the person so offending shall be liable to a fine not exceeding \$20, to be recovered by order of the Court, or before a Justice of the Peace of the County or City, and to be imprisoned for any term not exceeding three months, and the Bailiff of the Court, or any Peace Officer, may in any such case take the offender into custody (with or without warrant) and bring him before such Court or Justice accordingly. R. S. O. 1887, c. 51, s. 276.

Interfering
with bailiff.

Misconduct of Clerks, Bailiffs, etc.

285. If a Bailiff or officer, acting under colour or pretence of process of the Court, is guilty of extortion or misconduct, or does not duly pay or account for all money levied or received by him by virtue of his office, the Judge, at a sitting of the Court, if a party aggrieved thinks fit to complain to him in writing, may enquire into the matter in a summary way, and for that purpose he may summon and enforce the attendance of all necessary parties and witnesses, and may make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied or received, and for the payment of any such damages and costs to the parties aggrieved, as he thinks just; and in default of payment of the money so ordered to be paid by the Bailiff or officer within the time in the order specified for the payment thereof, the Judge may, by warrant under his hand and seal, cause such sum to be levied by distress and sale of the goods of the offender, together with the reasonable charges of the distress and sale, and in default of such distress (or summarily in the first instance) may commit the offender to the Common Gaol of the County for a period not exceeding three months. R. S. O. 1887, c. 51, s. 277.

Misconduct of
bailiffs and
officers.

286. If a Clerk, Bailiff or other officer exacts or takes any fee or reward other than the fees appointed and allowed by law for or on account of anything done by virtue of his office, or on any account relative to the execution of this Act, he shall, upon proof thereof before the Court, be forever incapable of being employed in a Division Court in any office of profit or emolument, and shall also be liable in damages to the party aggrieved. R. S. O. 1887, c. 51, s. 278.

Extortion.

Negligence of Bailiffs.

Bailiff neglecting duty in relation to execution.

287. In case a Bailiff employed to levy an execution against goods and chattels, by neglect, connivance or omission, loses the opportunity of so doing, then upon complaint of the party thereby aggrieved, and upon proof of the fact alleged to the satisfaction of the Court, the Judge shall order the Bailiff to pay such damages as it appears the plaintiff has sustained, not exceeding the sum for which the execution issued, and the Bailiff shall be liable therefor; and upon demand being made therefor and on his refusal to satisfy the same, payment shall be enforced by such means as are provided for enforcing judgments recovered in the Court. R. S. O. 1887, c. 51, s. 279.

Right of action against bailiff and sureties for neglect in returning execution or making false return.

288. If a Bailiff neglects to return an execution within three days after the return day thereof, or makes a false return thereto, the party who sued out the writ may maintain an action in any Court having competent jurisdiction against the Bailiff and his sureties on the covenant entered into by them, and shall recover therein the amount for which the execution issued, with interest thereon from the date of the judgment, or such less sum as in the opinion of the Judge or jury the plaintiff under the circumstances is justly entitled to recover. R. S. O. 1887, c. 51, s. 280.

Issuing execution against bailiff and sureties.

289. If a judgment is obtained in the action against the Bailiff and his sureties, execution shall immediately issue thereon, and in case of the departure or removal of the Bailiff from the limits of the County, the action may be commenced and carried on against his sureties alone, or against any one or more of them. R. S. O. 1887, c. 51, s. 281.

ENFORCING PAYMENT OF FINES.

Fines, how enforced by Division Courts.

290. In case a Division Court imposes a fine under authority of this Act, the same may be enforced upon the order of the Judge, in like manner as a judgment for any sum adjudged therein, and shall be accounted for as herein provided. R. S. O. 1887, c. 51, s. 282.

How enforced by Justices of the Peace.

291. In all cases in which by this Act a penalty or forfeiture is made recoverable before a Justice of the Peace, such Justice may, with or without information in writing, summon before him the party complained against, and thereupon hear and determine the matter of the complaint, and on proof of the offence convict the offender and adjudge him to pay the penalty or forfeiture incurred, and proceed to recover the same. R. S. O. 1887, c. 51, s. 283.

Form of conviction.

292. In all cases where a conviction is had for any offence committed against this Act, the form of conviction may be in the words or to the effect following, that is to say:

Be it remembered, that on this day of in the year
of our Lord , A. B. is convicted before
one (or two as the case may be) of Her Majesty's Justices of the Peace for
the County of (or before , a County Judge of
the County of), acting under *The Division Courts Act*, of having
(state the offence): and I (or we), the said do
adjudge the said to forfeit and pay for the same the sum of
or to be committed to the Common Gaol of the County of
for the space of
Given under hand and seal, the day and year afore-
said.

R. S. O. 1887, c. 51, s. 284.

PROTECTION OF PERSONS ACTING UNDER WARRANTS, ETC.

293. No action shall be brought against the Bailiff of a Division Court, or against any person acting by his order and in his aid, for anything done in obedience to any warrant under the hand of the Clerk and seal of the Court, until a written demand, signed by the person intending to bring the action, of the perusal, and a copy of the warrant has by such person, his solicitor or agent, been served upon or left at the residence of the Bailiff, and the perusal and copy have been neglected or refused for the space of six days after the demand. R.S.O. 1887, c. 51, s. 285.

Demand of perusal and copy of warrant to be made before action.

294. In case, after the demand and compliance therewith by shewing the warrant to and permitting a copy thereof to be taken by the person demanding the same, an action is brought against the Bailiff or other person who acted in his aid for any such cause without making the Clerk who signed or sealed the warrant a defendant, then on producing or proving the warrant at the trial, the jury shall give their verdict for the defendant, notwithstanding any defect of jurisdiction or other irregularity in or appearing by the warrant. R. S. O. 1887, c. 51, s. 286.

Bailiff entitled to verdict on production of warrant.

295. If an action is brought jointly against the Clerk and Bailiff, or the person who acted in his aid, then on proof of the warrant the jury shall find for the Bailiff or the person who so acted, notwithstanding such defect or irregularity as aforesaid; and if a verdict is given against the Clerk, the plaintiff shall recover his costs against him, to be taxed by the proper officer in such manner as to include the costs which the plaintiff is liable to pay to the defendant for whom a verdict has been found. R. S. O. 1887, c. 51, s. 287.

Where clerk and bailiff both sued and bailiff proves warrant.

296. In such action the defendant may plead not guilty, entering a note of this Act in the margin, and in such case may thereupon avail himself of the matters of defence herein given. R. S. O. 1887, c. 51, s. 288.

Defendant may plead "Not guilty by statute."

GENERAL PROVISIONS WITH REGARD TO ACTIONS FOR THINGS
DONE UNDER THIS ACT.

Distress not to be deemed unlawful or persons making it trespassers by reason of defect in proceedings.

297. No levy or distress for a sum of money to be levied by virtue of this Act shall be deemed unlawful, or the person making the same be deemed a trespasser, on account of any defect or want of form in the information, summons, conviction, warrant, precept or other proceeding relating thereto, nor shall the person distraining be deemed a trespasser from the beginning, on account of any irregularity afterwards committed by him; but the person aggrieved by the irregularity may recover full satisfaction for the special damage. R. S. O. 1887, c. 51, s. 289.

Limitation of actions for things done under this Act.

298. Any action or prosecution against any person for anything done in pursuance of this Act shall be commenced within six months after the fact was committed, and shall be laid and tried in the county where the fact was committed, and notice in writing of the action and of the cause thereof shall be given to the defendant one month at least before the commencement of the action. R. S. O. 1887, c. 51, s. 290.

Defendant may tender amends and plead the general issue, etc.

299. If tender of sufficient amends is made before action brought, or if the defendant, after action brought, pays a sufficient sum of money into Court with costs, the plaintiff shall not recover, and in such action the defendant may plead not guilty, and give any special matter in evidence under that plea. R. S. O. 1887, c. 51, s. 291. [*See also Cap. 88.*]

Plaintiff not to have costs where verdict not over ten dollars without certificate.

300. In case an action is brought in any Court of Record in respect of any grievances committed by any Clerk, Bailiff or officer of a Division Court, under colour or pretence of the process of such Court, and the jury upon the trial find no greater damages for the plaintiff than \$10, the plaintiff shall not have costs unless the Judge certifies in writing that the action was properly brought in such Court of Record. R. S. O. 1887, c. 51, s. 292.

DISPOSAL OF FINES.

Fines, how disposed of.

301. The moneys arising from any penalty, forfeiture or fine imposed by this Act, not directed to be otherwise applied, shall be paid to the Clerk of the Court which imposed the same, and shall be paid by him to the County Crown Attorney of the County, to be by him paid over to the Provincial Treasurer, and shall form part of the Consolidated Revenue Fund. R. S. O. 1887, c. 51, s. 293.

DISPOSAL OF MONEYS PAID INTO COURT.

Clerk to mail notice of payment of money.

302. The Clerk of every Division Court shall, immediately after the receipt of any sum of money whatever for any party

to an action, forward through the post office, to the party entitled to receive the same, a notice enclosed in an envelope addressed to such party, or in the case of a transcript of judgment from another Court, then to the Clerk who issued the same, at his proper post office address, informing him of the receipt of the money; the notice thus sent shall be prepaid and registered, and the Clerk shall obtain and file among the papers in the action the post office certificate of the registration, and shall deduct the postage and charge for registration from the moneys in his hands, but he shall charge no fee for the notice; the absence of the certificate of registration from among the papers in the action shall be *prima facie* evidence against the Clerk that the notice has not been forwarded. R. S. O. 1887, c. 51, s. 294.

303. All sums of money which have been paid into Court to the use of any party, and which have remained unclaimed for the period of six years after the same were paid into Court or to the officers thereof, and all sums of money in the hands of the Clerk or Bailiff, paid into Court, or to the officers thereof, to the use of any suitor shall, if unclaimed for the period of six years after the same were so paid, form part of the Consolidated Revenue Fund, and be paid over by the Clerk or officer holding the same to the County Crown Attorney of his County, to be by him paid over to the Treasurer of the Province, and no person shall be entitled to claim any sum which has remained unclaimed for six years. R. S. O. 1887, c. 51, s. 295.

Unclaimed moneys to be paid over to County Crown Attorney.

304. No time during which the person entitled to claim such sum was an infant or of unsound mind, or out of the Province, shall be taken into account in computing the six years. R. S. O. 1887, c. 51, s. 296.

Claims of persons under disability not to be prejudiced.

GENERAL RULES AND ORDERS.

305. The existing Board of County Judges with authority to make rules relating to Division Courts shall continue until superseded or revoked by the Lieutenant-Governor; and all Rules and Forms heretofore made relating to Division Courts and in force when this Act takes effect shall, so far as applicable, remain in force until otherwise ordered under the provisions of this Act. R. S. O. 1887, c. 51, s. 297.

Board of Judges and their authority to frame rules continued.

306.—(1) The Lieutenant-Governor may from time to time appoint and authorize five of the County Judges, who shall be styled "The Board of County Judges," to frame General Rules and Forms concerning the practice and proceedings of the Division Courts, and the execution of the process of such Courts, with power also to frame rules and orders in relation to the provisions of this Act, or of any future Act respecting such Courts, as to which doubts have arisen or may arise, or

The Lieutenant-Governor may appoint five County Judges to frame rules, etc.

as to which there have been or may be conflicting decisions in any of such Courts.

Retired Judge may be appointed.

(2) The Lieutenant-Governor may appoint any retired County Judge to be one of the members of the Board.

Rules respecting clerks and bailiffs.

(3) The Board may also from time to time make Rules for the guidance of Clerks and Bailiffs, and in relation to the duties and services to be performed, and to the fees to be received by them; and, subject to section 57, may also substitute other fees in lieu of fees payable to Clerks and Bailiffs under any rule, order or statute.

Amendment of rules.

(4) The Board may from time to time alter or amend any Rules or Orders made for the Division Courts, and may for any Division Court Division, embracing a City or part of a City, establish a lower tariff of fees from that established for County Division Courts. R. S. O. 1887, c. 51, s. 298.

Inspector to be a member of Board.

(5) The Inspector of Division Courts for the time being shall be a member of the said Board. 57 V. c. 23, s. 3.

Board to certify rules to the High Court to be laid before the Judges.

307. The Board of County Judges or any three of them shall, under their hands, certify to the President of the High Court all Rules and Forms made after this Act takes effect, and the said President shall submit the same to the Judges of the High Court, or to any four of them. R. S. O. 1887, c. 51, s. 299.

Such rules when approved of by the Judges,

308. The Judges of the High Court (of whom the President of one of the Divisions shall be one) may approve of, disallow, or amend any such Rules or Forms. R. S. O. 1887, c. 51, s. 300.

to have force of a statute.

309. The Rules and Forms so approved of shall have the same force and effect as if they had been made and included in this Act. R. S. O. 1887, c. 51, s. 301.

Board to transmit copies to the Lieutenant-Governor, etc.

310. The Judges who make any Rules and Forms approved of as aforesaid shall forward copies thereof to the Lieutenant-Governor, and the Lieutenant-Governor shall lay the same before the Legislative Assembly. R. S. O. 1887, c. 51, s. 302.

Expenses provided for.

311. The Lieutenant-Governor may, by warrant, direct the Provincial Treasurer to pay, out of the Consolidated Revenue Fund, the contingent expenses connected with the framing, approval and printing of such Rules. R. S. O. 1887, c. 51, s. 303.

Practice of the High Court may be followed in unprovided cases.

312. In any case not expressly provided for by this Act or by existing Rules, or by Rules made under this Act, the County Judges may, in their discretion, adopt and apply the general principles of practice in the High Court to actions

and proceedings in the Division Courts; provided that nothing herein contained shall be held to authorize the taxation or allowance of costs to any officer of the court, other than those to be found in the tariff of fees as authorized and allowed by the Board of County Judges, under the provisions of this or any other Act. R. S. O. 1887, c. 51, s. 304.

SCHEDULE A.

(Section 36.)

COVENANT BY CLERK OR BAILIFF.

Know all men by these presents, that we *J. B.*, Clerk (*or Bailiff as the case may be*) of the _____ Division Court, in the County _____ S. S., of _____, in the said County of _____ (*Esquire*), and *P. M.*, of _____,

in the said County of _____ (*Gentleman*), do hereby jointly and severally for ourselves, and for each of our heirs, executors and administrators, covenant and promise that *J. B.*, Clerk (*or Bailiff*) of the said Division Court shall duly pay over to every person entitled to the same, all such moneys as he shall receive by virtue of the said office of Clerk (*or Bailiff*) and shall and will well and faithfully do and perform the duties imposed upon him as such Clerk (*or Bailiff*) by law, and shall not misconduct himself in the said office to the damage of any person being a party in any legal proceeding; (*in the case of a Clerk's covenant insert*); and shall pay over to any Bailiff or Bailiffs of the Division Courts the fees to which he or they may become entitled under the tariff of fees, unless where the Clerk and the Bailiff otherwise agree in writing); nevertheless, it is hereby declared that no greater sum shall be recovered under this covenant against the several parties hereto than as follows, that is to say:

Against the said <i>J. B.</i> in the whole,	— dollars.
Against the said <i>S. S.</i> in the whole,	— dollars.
Against the said <i>P. M.</i> in the whole,	— dollars.

In Witness Whereof, we have to these presents set our hands and seals, this _____ day of _____, in the year of Our Lord one thousand eight hundred and _____

Signed, sealed and delivered, }
in the presence of }

R. S. O. 1887, c. 51, Sched. ; '60 V. c. 14, s. 11.

SCHEDULE B.

(Section 46.)

PROCEDURE BOOK.

No. Division Court of the
 189
Ensuuing Sittings the day of 189
 vs.
 of of
189

		No. of initial letter of item of tariff.	Bailiff.	Clerk.	\$
	Received particulars of plain- tiff's claim () for \$, and \$ towards costs Issued () summons to Summons ret'd. Served the day of 189 , by miles, The defendant having been served with special summons and particulars of claim, and not disputing the same, it is adjudged that the plain- tiff recover \$ for debt, and \$ for costs.				

Clerk.
57 V. c. 23, Sched. B.

SCHEDULE C.

(Section 46.)

FOREIGN PROCEDURE BOOK.

No. Division Court of the
 vs.
189

	Received summons from County of Issued summons to Bailiff Summons ret'd. Served the by Ret'd to Clerk of County of	Division Court, Rec. Aff. day of Post. Division Court, Bailiff's fees. Miles. Ser. Att.	
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57 V. c. 23, Sched. C.

SCHEDULE D.

(Section 230.)

EXECUTION AGAINST LANDS.

In the Division Court of the Count of

Between *A. B.*, Plaintiff,
and
C. D., Defendant.

Whereas, on the day of , A. D. 18 , the plaintiff duly recovered in the said Court, held in and for the said Division, judgment against the defendant for \$ for debt, and \$ for costs of suit, which remain unsatisfied (*when judgment has been revived, add, and* on the day of , A. D. 18 , the said judgment, was duly revived.) You are hereby required to levy of the lands and tenements of the defendant in the said count , the said moneys, amounting together to the sum of \$ and interest thereon at the rate of six per cent. per annum, from the day of A. D. 18 , together with your own fees, poundage and incidental expenses; so that you may have the same immediately after the execution hereof, and pay the same over to the Clerk of this Court for the plaintiff.

Given under the seal of the Court, this day of , A. D. 18 .

Z. Y.,
Clerk.

To *V. W.*,
Sheriff of the Count of

57 V. c. 23, Sched. D.

5. JURORS AND JURIES.

CHAPTER 61.

An Act respecting Jurors and Juries.

SHORT TITLE, s. 1.	SPECIAL JURIES, ss. 114-121.
INTERPRETATION, s. 2.	Juries of Merchants, etc., ss. 122-128.
QUALIFICATIONS, EXEMPTIONS AND DISQUALIFICATIONS OF JURORS, ss. 3-10.	Costs of Special Juries, ss. 129, 130.
COUNTY SELECTORS, ss. 11-16.	VIEWS BY JURORS, ss. 131-136.
SELECTION AND DISTRIBUTION OF JURORS FROM THE ASSESSMENT ROLL, ss. 17-28.	DUTIES OF SHERIFFS MAY BE PERFORMED BY DEPUTY, s. 137.
PREPARATION OF JURORS' BOOKS, ss. 29-48.	OMISSIONS NOT TO VITIATE VERDICTS, s. 138.
SECOND SELECTION OF JURY LISTS FROM JURORS' BOOKS, ss. 49-61.	NO PERSON TO BE SUMMONED UNLESS ON THE ROLL, s. 139.
SELECTION IN CASE OF SEPARATION OF UNITED COUNTIES, ss. 62-65.	SHERIFFS' AND CORONERS' JURIES, s. 140.
PROCESS FOR RETURN OF PANELS OF JURORS, ss. 66-84.	JURIES, <i>de ventre inspiciendo</i> , s. 141.
DRAFTING PANELS FROM JURY LISTS, ss. 85-96.	FEES OF JURORS, ss. 142-149.
SUMMONING JURORS, ss. 97-101.	FUND FOR PAYMENT OF JURORS, ss. 150-158.
MODE OF DRAFTING BY CORONERS AND SELECTORS, s. 102.	FEES OF SELECTORS, CLERKS OF PEACE AND SHERIFFS, ss. 159-162.
EMPANELLING GRAND JURY, s. 103.	MODE OF PAYMENT, ss. 163, 164.
DRAWING JURORS AT THE TRIAL, ss. 104-108.	OFFENCES AND PENALTIES, ss. 165-177.
ENTRY OF NON-SERVICE, s. 109.	GENERAL PROVISIONS, ss. 178, 180.
CHALLENGES, ss. 110-113.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Jurors' Act.*" R. S. O. 1887, c. 52, s. 1.

INTERPRETATION.

Interpretation.

2. Where the following words occur in this Act or in the schedules thereto, they shall be construed in the manner herein-after mentioned, unless a contrary intention appears.

"County."

"Township."

1. "County," shall include "Unions of Counties" for judicial purposes, and "Township" shall include "Unions of Townships."

2. "High Court," or "High Court of Justice," and all words referring to such Court, shall include the High Court of Justice for Ontario, and any Court of Assize, Nisi Prius, Oyer and Terminer, or Gaol Delivery. "High Court of Justice."

3. "Sitting of the High Court" shall mean a sitting of the said Court for the trial of civil or criminal cases by a jury, and shall also include a sitting of a Court of Assize, Nisi Prius, Oyer and Terminer or Gaol Delivery. Sitting of High Court. R. S. O. 1887, c. 52, s. 2.

QUALIFICATIONS, EXEMPTIONS, AND DISQUALIFICATIONS OF JURORS.

3. Unless exempted, every person residing in any county or other local judicial division in Ontario, who is over the age of twenty-one years, and in the possession of his natural faculties, and not infirm or decrepit, and who is assessed as owner or tenant for local purposes upon property, real or personal, belonging to him in his own right of the value of not less than \$600 in cities, and \$400 in towns, incorporated villages, and townships, or whose wife is so assessed for property belonging to her in her own right, shall be qualified and liable to serve as a Juror, both on Grand and Petit Juries, in the High Court of Justice for Ontario, and in all Courts of civil or criminal jurisdiction within the county or other local judicial division aforesaid, in which he resides. Who qualified and liable to serve. R. S. O. 1887, c. 52, s. 3; 60 V. c. 3, s. 3; See 55 V. c. 42, ss. 73, 79.

4. No person enrolled as a Juror, in respect of property of which he or his wife was at the time seised or possessed, shall be disqualified or exempted from serving as a Juror, in consequence of he or she having ceased to be seised or possessed of the property between the time of enrolment and of such person being called upon to serve as a Juror, nor shall the same form any ground of challenge to such Juror. Parting with property after assessment not to disqualify or exempt. R. S. O. 1887, c. 52, s. 4.

5. Where property is assessed on the assessment roll of a township, village or ward, as the property of two or more persons jointly, the Selectors of Jurors to whom it belongs to extract from the roll the names thereon of those qualified and liable to serve as Jurors, may, and, if they have the requisite information as to the names of the parties to enable them to do so, shall, in making such extract, and for all the purposes of this Act, treat the property as if it belonged to such persons in equal proportions, and the Selectors shall treat each of such persons, as respects his qualification and liability to serve as a Juror, as if he had been severally assessed for an equal proportion of the property. Joint proprietors to be deemed equally interested. R. S. O. 1887, c. 52, s. 5.

6. The following persons are hereby absolutely freed and exempted from being returned and from serving as either Grand or Petit Jurors in any Court, and shall not be inserted Persons exempted from serving as Jurors.

in the rolls to be prepared and reported by the Selectors of Jurors as hereinafter mentioned :

1. Every person upwards of sixty years of age ;
2. Every member of the Executive Council of Canada and of this Province ;
3. The Secretaries of the Governor-General and the Lieutenant-Governor ;
4. Every officer and other person in the service of the Governor-General or Lieutenant-Governor for the time being ;
5. Every clerk and servant belonging to the Senate and House of Commons and the Legislative Assembly, or to the Public Departments of Canada or of this Province ;
6. Every officer of the Dominion or Provincial Government ;
7. Every officer of the Post Office, Customs, and Excise ;
8. Every Inspector of Prisons ;
9. The Wardens of the Provincial Penitentiary, the Central Prison and the Reformatory ;
10. Every officer and servant in the said Penitentiary, Central Prison, and Reformatory ;
11. Every Judge of a Court having general jurisdiction throughout Ontario ;
12. Every Judge of any County or other Court (except the General Sessions of the Peace) having jurisdiction throughout any county ;
13. Every Sheriff, Coroner, Gaoler and Keeper of a House of Correction or Lock-up House ;
14. Every Sheriff's Officer and Constable ;
15. Every Priest, Clergyman and Minister of the Gospel recognized by law, to whatever denomination of Christians he may belong ;
16. Every member of the Law Society of Upper Canada, actually engaged in the pursuit or practice of his profession, whether as a Barrister or Student ;
17. Every Solicitor of the Supreme Court of Judicature for Ontario actually practising ;
18. Every officer of any Court of Justice whether of general, county, or other local jurisdiction, actually exercising the duties of his office ;
19. Every Physician, Surgeon, and Pharmaceutical Chemist, duly qualified to practise, and being in actual practice ;
20. Every officer in Her Majesty's Army or Navy on full pay ;
21. The officers, non-commissioned officers and men of every corps of Volunteers, while they continue such ; and a certificate

under the hand of the officer commanding any such corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer or man for the then current year, and of his exemption as aforesaid ;

22. Every Pilot and Seaman actually engaged in the pursuit of his calling ;

23. Every County, Township, City, Town, and Village Treasurer and Clerk ;

24. Every Collector and Assessor ;

25. Every Professor, Master and Teacher of any University, College, Collegiate Institute, High School, Public School, or other School or Seminary of learning, actually engaged in performing the duties of such appointment ;

26. Every officer and servant of any University, College, School or Seminary of learning, actually exercising the duty of his office or employment ;

27. Every Editor, Reporter, and Printer of any public newspaper or journal actually engaged in such employment or occupation ;

28. Every person actually employed in the management and working of any Railway ;

29. Every Telegraph Operator ;

30. Every Miller ;

31. Every Fireman belonging to any regular Fire Company who has procured the certificate authorized by section 2 of *The Act to Exempt Firemen from certain Local Services* during the period of his enrolment and continuance in actual duty as such Fireman ; and every Fireman who is entitled and who has received the certificate authorized by sections 5 and 6 of the said last mentioned Act ; but no Fireman shall be exempt from serving as a Juror, unless the captain or other officer of the Fire Company, at least five days before the time appointed for the selection of Jurors, notifies to the Clerk of the Municipality the names of Firemen belonging to his company, residing within the Municipality, who are exempt as aforesaid, and claims exemption for them. R. S. O. 1887, c. 52, s. 6. Rev. Stat. c. 231.

7. Every member of the Senate and House of Commons and of the Legislative Assembly of this Province, every Warden and every member of any County Council, every Mayor, Reeve, or Deputy Reeve of any city, town, township, or village, every Justice of the Peace, and every other member and officer of any Municipal Corporation, is hereby absolutely freed and exempted from being selected by the Selectors of Jurors hereinafter mentioned to serve as a Grand or Petit Juror in Her Majesty's Inferior Courts, and none of the names of any such persons shall be inserted in the rolls from which Exemptions from serving in inferior courts.

Jurors are to be taken for such purposes, and if any such name be at any time accidentally inserted in any such roll, it shall, if drawn in selecting any jury list or drafting any panel therefrom for such Inferior Courts, be set aside and not inserted therein. R. S. O. 1887, c. 52, s. 7.

Service at
Division
Courts not to
exempt.

8. Service as a Juror at any Division Court shall not exempt such Juror from serving as a Juror at any other Court, and no person who is by law exempted from serving as a Petit Juror in the High Court shall be compelled to serve as a Juror in any Division Court. R. S. O. 1887, c. 51, s. 163 ; c. 52, s. 8.

Aliens
disqualified.

9. No person not being a natural-born or naturalized subject of Her Majesty shall be qualified to serve as a Grand or Petit Juror in any of the Courts aforesaid on any occasion whatever. R. S. O. 1887, c. 52, s. 9.

Convicted persons
disqualified.

10. No person convicted of any treason, felony, or infamous crime, unless he has obtained a free pardon, and no man who is under outlawry, shall be qualified to serve as a Grand or Petit Juror in any of the said Courts on any occasion whatever. R. S. O. 1887, c. 52, s. 10.

County
Selectors.

11.—(1) The Senior Judge of the County Court, the Junior Judge thereof, the Mayor of any city situate in any county, the Warden, the Treasurer, the Sheriff or in his absence the Deputy Sheriff of the county, any three of whom shall be a quorum, shall be *ex-officio* Selectors of Jurors, from the Jurors' Rolls within their respective counties, and may be known as "County Selectors." In case of an equality of votes, amongst the Selectors present upon any question which may arise, the County Judge, if present, or in his absence the Junior Judge, shall have a double or casting vote in the decision of the question. R. S. O. 1887, c. 52, s. 11.

Selectors of
Jurors for city
of Toronto and
county of
York.

(2) It shall not be necessary for the Sheriff of the County of York, the Sheriff of the City of Toronto, the Senior Judge of the County of York, a Junior Judge of the said County, the Warden of the said county and the Mayor of the said City, to attend together upon the selection of Jurors to serve in the High Court and Inferior Courts ; but the Sheriff of the County of York, the Senior Judge of the said County and the Warden of the said County shall attend at such selection of Jurors so far as it is made from the lists prepared by the selectors for the local municipalities in the County of York other than the City of Toronto ; and the Sheriff of Toronto, the senior Junior Judge of the said County, and the Mayor of the City of Toronto shall attend at such selection of Jurors so far as it is made from the list prepared by the Selectors for the City of Toronto ; and any selection of Jurors so made shall be deemed in all respects valid and effectual and a sufficient compliance with the provisions of this Act. Selectors whose attendance is rendered unnecessary

by this subsection shall not be entitled to fees for any unnecessary attendance. 56 V. c. 16, s. 2.

12. When the County Treasurer is a practising barrister or solicitor he shall be disqualified from acting as a County Selector, and in such case the Clerk of the County Council shall be a County Selector in his place and stead, and if the Clerk of the County Council be a practising barrister or solicitor he shall in like manner be disqualified, and the Clerk of the County Court shall be a County Selector in the place and stead of the persons so disqualified. R. S. O. 1887, c. 52, s. 12.

County Clerk or Clerk of County Court a Selector, when.

13. The County Selectors for each county shall assemble annually at the office of the Clerk of the Peace, or in the County Court House, on the 15th day of September, or if such day be a Sunday or a statutory holiday, then on the first day thereafter, not being such holiday, for the purpose of determining the number of Jurors, both Grand and Petit, and for the High Court and Inferior Courts respectively, which shall be returned by the townships, villages and urban wards as the case may be, to the Clerk of the Peace, for service as Jurors during the ensuing year, and the Clerk of the Peace shall attend the meeting of such Selectors, and, in a book to be kept for the purpose, shall enter their proceedings and resolutions; but he shall have no voice in the selection of Jurors, and shall in no case advise or express an opinion whether any name ought to be placed upon or omitted from the jury list. R. S. O. 1887, c. 52, s. 13.

Annual meeting of County Selectors.

14. The County Selectors shall at such meeting, by resolution, first determine and declare the number of jurors, both Grand and Petit respectively, that will be required as jury panels for service at the several sessions of the Courts during the ensuing year, and shall fix the total number of names of jurors, Grand and Petit respectively, and for the High Court and Inferior Courts respectively, which the local municipalities shall return at three times the number declared by the resolution to be required. R. S. O. 1887, c. 52, s. 14.

Determining number of Jurors for the year.

15. The County Selectors shall then, by resolution, determine the number of names of the Grand and Petit Jurors respectively, for the High Court and Inferior Courts respectively, to be returned for each township, village and urban ward in the county, and the number of names of persons on the Voters' List of each municipality, marked as qualified to serve on juries, shall form an approximate basis for such division, and the Clerk of the Peace shall preserve, and at such meeting produce for the use of the County Selectors, the Voters' Lists, delivered to him by the Clerks of the several municipalities under the provisions of *The Ontario Voters' Lists Act*, or duly certified copies of such lists. R. S. O. 1887, c. 52, s. 15.

Determining number of Jurors from each municipality.

Rev. Stat. c. 7.

Clerk of the Peace to notify Clerks of local municipalities.

16. The Clerk of the Peace shall within five days after the meeting of the County Selectors, notify in writing the Clerk of each local municipality in the county of the number of names of Grand and Petit Jurors respectively required to be returned from the municipality for which he is Clerk, and in the case of cities and towns for each ward of such city or town for service in the High Court and Inferior Courts respectively. R. S. O. 1887, c. 52, s. 16.

SELECTION AND DISTRIBUTION OF JURORS FROM THE ASSESSMENT ROLL.

Certain municipal functionaries to be municipal selectors of jurors.

17. The mayor or reeve, the city, town, village or township clerk and the assessor, or assessors, if there be more than one, of the respective cities, towns, villages and townships in Ontario, shall be *ex officio* the first Selectors of Jurors for every township and village and for each ward of every such city or town. R. S. O. 1887, c. 52, s. 17.

When and where the selection shall be made.

18. The Selectors shall assemble annually on the 10th day of October, or if that day be a Sunday or a statutory holiday, then on the first day thereafter not being such holiday, at the place where the meetings of the municipal council of such city, town, village or township are usually held, or at such other place within the municipality as may for that purpose be appointed by the head of such municipal corporation, or during his absence, or the vacancy of the office, by the clerk thereof, for the purpose of selecting from the assessment rolls of such city, town, village or township the names of the persons qualified and liable to serve as Jurors under this Act. R. S. O. 1887, c. 52, s. 18.

Principles by which the selectors are to be governed.

19. The Selectors shall select such persons as in the opinion of the Selectors, or of a majority of them, are from the integrity of their characters, the soundness of their judgments and the extent of their information, the most discreet and competent for the performance of the duties of jurors. R. S. O. 1887, c. 52, s. 19.

Assessment rolls to be produced.

20. The city, town, village or township clerk, or the assessor or assessors, or the other officer or person who has the actual charge or custody of the assessment roll for any city, town, village or township for the year, shall, at the time aforesaid, bring such assessment roll to the annual meeting of the Selectors of Jurors for such city, town, village or township, and permit the use of the same for the purpose aforesaid. R. S. O. 1887, c. 52, s. 20.

Meeting of selectors.

21. The Selectors shall annually, on the said 10th day of October, or if they have been unable to complete the duty hereby imposed upon them on such day, then on the first day next thereafter not being a Sunday or a statutory holiday,

proceed to select the names from the rolls, and shall, before entering upon the performance of their duties, severally make and subscribe an oath or affirmation in the form following :

I, *A. B.*, do swear (*or affirm, as the case may be*) that I will truly, faithfully and impartially, without fear, favor or affection, and to the best of my knowledge and ability, perform the duty of a Selector of Jurors, and will select from the proper lists the requisite number of the most fit and proper persons to serve as Jurors for the year of Our Lord 18 . . . So help me God.

Sworn (*or affirmed*) before me, at
the . . . day of . . . 18 . . .

(Signed) *A. B.*

(Signed) *C. D.,
J. P.,*

which oath or affirmation any Justice of the Peace may (within his jurisdiction) administer. R. S. O. 1887, c. 52, s. 21.

22.—(1) The Selectors for every municipality shall, from the certified Voters' List for the municipality for the year, if the list has been certified, or if the same has not been certified, then from the list for the year published by the Clerk of the municipality, or if no such list has been published, then from the last certified list, or if there is no certified list for the municipality then from the assessment roll, write down on one or more sheets of paper, provided for that purpose, twice as many names of persons appearing by the assessment roll to be possessed of the requisite property qualification and otherwise duly qualified to serve on juries, as have been required by the County Selectors to be selected and returned from the township, village or urban wards of the municipality, and the proper assessment roll shall in all cases be referred to by the Selectors for the purpose of determining who are exempt or disqualified from acting as Jurors, and for such other purposes as are necessary in the discharge of their duty as Selectors.

Manner in which municipal selectors to make list, from which to select jurors.

(2) The Clerk of the municipality shall, for the purposes of this section, bring with him and produce to the Selectors the proper Voters' List and assessment roll.

Clerk to produce voters' list and assessment roll.

(3) The Selectors for every municipality respectively shall from year to year in making the selection, proceed from letter to letter in alphabetical order, and shall write down the names consecutively in alphabetical order of all those persons qualified to serve on juries and not exempt by law, until twice the total number required to be returned from the municipality of persons duly qualified shall be obtained, and at each subsequent annual meeting the Selectors for the municipality shall begin at the letter next to that at which they left off the preceding year, and so on in alphabetical order, until they shall have gone through all the remaining letters of the alphabet, when they shall again begin with the letter A.

Selection to be made in alphabetical order.

(4) In the event of the Selectors obtaining the names of a sufficient number of duly qualified persons after they have entered upon, but not before they have exhausted the entire

Procedure when number qualified under one letter not exhausted.

number of those qualified under any one letter, they shall at the next annual selection commence at the beginning of such letter, but shall not select from the names of any persons that were written down and selected from and returned the preceding year. The Selectors shall select at least two-thirds of the persons whose names they have so written down, namely, the two-thirds thereof in their opinion the best qualified to serve on juries, and shall place a number opposite each name of the said two-thirds so-selected. R. S. O. 1887, c. 52, s. 22.

Who to be placed on list by municipal selectors where number of names of duly qualified persons not sufficient.

(5) Where in any municipality or urban ward the number of duly qualified persons required to be selected by the County Selectors from such municipality or urban ward, after discarding the names of those exempt or incapacitated, cannot be found, the municipal Selectors shall place on the list the names only of such persons within the municipality as are duly qualified, and the number of Jurors required shall be selected from such list.

Clerk to notify county selectors of facts.

(6) In any such case the Clerk of the municipality shall notify the County Selectors of the facts, and they shall at their next and subsequent selections have regard thereto.

Inability of municipal selectors to find number of names required by county selectors not to affect jury panel.

(7) The inability of the selectors in any municipality or urban ward either to find twice the number of persons having the proper qualification, after discarding the names of those exempt or incapacitated, that have been required by the County Selectors to be selected or returned from any municipality or urban ward, which may be written down upon the sheet as by this Act is provided, or to find the number required by the County Selectors to be returned from a municipality or urban ward, shall not invalidate or render irregular the selection by them of the Jury List or panel, or render the same liable to challenge. 58 V. c. 15, s. 6.

Voters' list to show persons qualified to serve as jurors.

23. In order to facilitate the selection of Jurors, the Clerk shall, in making out the Voters' List, in the column containing the number of the voter on the roll, or in a separate column provided for the purpose beside the same, write or mark the letter J upon the Voters' List opposite the name of every male person over twenty-one and under sixty years of age, who, by the roll, appears to possess the property qualification requisite to qualify him to serve as a Juror, and such Voters' List shall show, at or near the end thereof, the aggregate number of names of persons upon such list qualified to serve on juries, and in the case of cities and towns the said list shall give the same information for each ward, and it shall not be necessary for the Selectors to refer to any name on the assessment roll which has not the letter J opposite it in the Voters' List, unless the Selectors suspect that some names are not properly marked. R. S. O. 1887, c. 52, s. 23.

24. In case of an equality of votes amongst the Selectors as to any one or more of the names to be so selected, or as to the division of the report of the Selectors in which any such name shall be inserted in the distribution of such names as hereinafter provided, or as to any other incidental question which may arise, the mayor or town reeve, or, in the case of his absence or the vacancy of the office, the city, town, village or township clerk, or in the absence or vacancy of the offices of both, then the assessor whose roll for the year contains the greatest number of assessed names, and in the case of joint assessors, the assessor first named in the appointment of such assessors, shall have a casting or double vote in the decision of the question. R. S. O. 1887, c. 52, s. 24.

In case of an equality of votes among the selectors, who to have the casting vote.

25.—(1) The Selectors shall then prepare a set of ballots on pieces of parchment or paper of uniform and convenient size, containing the same number of ballots as there are names selected, allowing one name to each ballot, and such ballot shall be numbered to correspond with the numbers opposite the names of the two-thirds selected, and the Selectors shall then proceed to ballot for Jurors, the number required to be selected from such municipality by the County Selectors.

Jurors to be selected by ballot.

(2) The Clerk of the municipality shall, in a book to be kept for that purpose, enter the dates of the meetings of such Selectors for the municipalities, the persons present thereat and taking part therein, and the letters of the alphabet from which the selections of names of persons are from year to year made, and when the names in any letter have not been exhausted in any one year, the Clerk of the municipality shall enter in such book the names and additions of all persons whose names begin with the last mentioned letter that were written down and selected from and returned during the then current year.

Record to be kept by clerk of municipality.

(3) The manner of balloting shall be as follows :

- (a)** The Selectors, or one of them, shall place the ballots, correctly numbered, promiscuously in a box or urn, to be by them procured for that purpose, and shall cause the box or urn to be shaken so as sufficiently to mix the ballots, and shall then openly draw from the said box or urn indiscriminately, one of the ballots, and declare openly the number on such ballot, whereupon the Clerk, or one of the Selectors present, shall immediately declare aloud the name of the person opposite whose name the corresponding number is placed on the list ;
- (b)** And thereupon the name and addition of the person whose name has been so selected, shall be written down on a sheet of paper provided for that purpose ;
- (c)** After this is done, the Selectors shall proceed in like manner to ballot and dispose of other numbers from the said box or urn, until the necessary number has been completed. R. S. O. 1887, c. 52, s. 25.

Manner of balloting.

Jurors to be distributed into four divisions.

26. The Selectors having made such selection and ballot shall, for the purpose of the report thereof, distribute the names of the persons so balloted into four divisions; the first consisting of persons to serve as Grand Jurors in the High Court; the second, of persons to serve as Grand Jurors in the Inferior Courts; the third, of persons to serve as Petit Jurors in the High Court; and the fourth, of persons to serve as Petit Jurors in the Inferior Courts, and shall make such distribution according to the best of their judgment with a view to the relative competency of the parties to discharge the duties required of them respectively. R. S. O. 1887, c. 52, s. 26.

Selectors to make distribution among the four divisions.

27.—(1) The Selectors shall make the distribution among the four divisions, so that each division shall contain the number of names required by the County Selectors to be returned for such division, from the township, village or urban ward respectively.

Names to be returned to Clerk of Peace.

(2) The Selectors shall make out and return to the Clerk of the Peace the names of the persons so selected in alphabetical order. R. S. O. 1887, c. 52, s. 27.

Selectors to make out a duplicate report, etc.

28.—(1) The said Selectors of Jurors respectively shall thereupon make out in duplicate under their hands and seals, or under the hands and seals of such of them as perform the duty, a report of their selection, ballot and distribution for the township or village or urban ward, as the case may be, which report shall be as nearly as may be in the form given in Schedule A, appended to this Act, and be filled up agreeably to the directions contained in the notes to such form.

Declaration to be subjoined to the report.

(2) There shall be subjoined to each duplicate report a written declaration, subscribed by the Selectors respectively, stating, each for himself, that he has made the selection, ballot and distribution to the best of his judgment and information pursuant to this Act, and without fear, favour or affection of, to, or for any person or persons whomsoever, gain, reward or hope thereof, other than such fees as he is lawfully entitled to receive for the same under the authority of this Act.

Reports to be deposited with certain officers.

(3) One of such duplicate reports shall, on or before the 25th day of October, be deposited by such Selectors with the Clerk of the Peace for the county in which the town, village or township lies, or within the limits of which such city is embraced; and the other duplicate with the city, town or village or township clerk, as the case may be.

Who shall keep the same on file.

(4) Such Clerks respectively shall keep such duplicate reports on file in their respective offices for the use and information of all who may have lawful occasion to examine or make use of the same.

In case of loss, a copy of the duplicate report to be filed.

(5) In case of the loss or destruction of any duplicate original Selectors' report, the officer in whose office the same

was when so lost or destroyed, shall, as soon as reasonably may be, procure from the officer to whom the legal custody of the other duplicate original of such report belongs, a certified copy of such duplicate report, and shall file the same in his office in lieu of the duplicate original, and such certified copy shall be thenceforth taken, received and acted upon in all respects as if it were the duplicate original report so lost or destroyed. R. S. O. 1887, c. 52, s. 28.

PREPARATION OF JURORS' BOOKS.

29. The Clerk of the Peace for every county shall annually procure a book and keep the same as nearly as may be in the form of Schedule B to this Act, and agreeably to the directions contained in the notes to such Schedule, and such book shall be called "The Jurors' Book," for the county of which he is such Clerk, and the year for which such book is to be used, as hereinafter provided, shall be inserted therein. R. S. O. 1887, c. 52, s. 29.

Clerk of the Peace to prepare Jurors' books in form of schedule B.

30. From the reports of the first Selectors of Jurors for the different townships, villages and urban wards, or other like local divisions of the county, so made to the several Clerks of the Peace for such year, or from such of them as may have been so made to them respectively, on or before the 25th day of October, in such year, each Clerk shall between the 25th day of October and the 10th day of November in such year, transcribe into the Jurors' Book aforesaid, in alphabetical order, the names and additions of all persons selected to serve as Grand or Petit Jurors, as the same are set forth and distributed in such reports. R. S. O. 1887, c. 52, s. 30.

In which shall be entered the names of Grand and Petit Jurors.

31. Such names shall be transcribed into the book in four Rolls: the first to be called, "Roll of Grand Jurors to serve in Her Majesty's High Court of Justice," the second, "Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction," the third, "Roll of Petit Jurors to serve in Her Majesty's High Court of Justice," and the fourth, "Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal or Civil Jurisdiction." R. S. O. 1887, c. 52, s. 31.

Such books to contain four rolls of Jurors.

32. In each of the rolls shall be transcribed the names and additions of all persons by the Selectors selected, balloted and reported as aforesaid to serve as Jurors in the county. R. S. O. 1887, c. 52, s. 32.

Names and additions of Jurors.

33. The Clerk of the Peace shall, on or before the 31st day of December, cause a correct copy of such Jurors' Book, certified by him to be a true copy of the original, to be made and, in the County of York, deposited in the Central Office of the High Court, and in other counties, in the

Clerk of the Peace to prepare certified copies of books and deposit same, etc.

office of the Deputy Clerk of the Crown and Pleas, or of the Local Registrar of the High Court in the county, as the case may be, and from it, in the event of the loss or destruction of the original by fire or other accident, a duplicate original of such Jurors' Book shall be made, and being certified by the said Registrar, Deputy Clerk or Local Registrar, to be truly copied from the copy deposited in his office, shall, upon such loss or destruction being established upon oath or affirmation before two or more Justices of the Peace of the county, be received and used on all occasions and for all purposes, as the original so lost or destroyed. R. S. O. 1887, c. 52, s. 33.

Where original Jurors' Book is destroyed.

34. In case of the destruction of an original Jurors' Book, the Clerk of the Peace for the county shall, as soon as reasonably may be, procure a duplicate original thereof, certified as aforesaid, and deposit the same in his office as above provided. R. S. O. 1887, c. 52, s. 34.

Entry of panels in duplicate original of Jurors' Book.

35. In such case the Clerk of the Peace shall, as soon as may be after procuring the duplicate original, give to the Sheriff or other officer of the county to whom the return of jury process belongs, notice of such destruction, and of the procurement and deposit of the duplicate original in lieu of the original, and thereupon the sheriff or officer shall furnish to the Clerk of the Peace copies of all panels of Jurors drafted by the sheriff or officer from the Jury Lists in the original book; and the Clerk of the Peace shall thereupon enter the panels in the duplicate original Jurors' Book, in like manner as the same were entered in the original Jurors' Book. R. S. O. 1887, c. 52, s. 35.

Duty of Clerk of the Peace on dissolution of union of counties.

36. In every case in which a proclamation issues, separating a junior county from a senior county or union of counties to take effect from and after the 1st day of January of the then following year, the Clerk of the Peace for the union of counties of which the junior county is at the time a member, shall procure two of such Jurors' Books, one for the county or counties from which such junior county is to be so separated, and the other for such junior county itself. R. S. O. 1887, c. 52, s. 36.

Transcribing names into books for senior and junior counties.

37. The Clerk shall transcribe into the former of such books the names and additions of all persons selected for the different townships, villages and urban wards of the senior county or counties, into the latter of such books, the names and additions of all persons selected for the different townships, villages and urban wards of the junior county respectively. R. S. O. 1887, c. 52, s. 37.

Who to prepare books and select lists for separated counties.

38. In such case the preparing of the books, the selecting of the Jury Lists, and the performing of all other acts and things required by this Act to be done for such Junior county for such following year, shall be done and performed by the

Clerk of the Peace and Court of General Sessions of the Peace for such original union of counties, and by the chairman and officers thereof. R. S. O. 1887, c. 52, s. 38.

39. In such case as soon as may be after the Jurors' Book for the junior county has been completed and the copies thereof made and deposited in the proper offices, the Clerk of the Peace of the original union of counties shall, on demand thereof, deliver the same to the Clerk of the Peace of the junior county, who shall thereupon give him a receipt for such book. Clerk of the Peace of senior county to deliver Jurors' Book to Clerk of the Peace of junior county. R. S. O. 1887, c. 52, s. 39.

40. Upon the receipt being filed with the treasurer of the junior county, and upon the accounts of the Clerk of the Peace and crier of the Court of General Sessions of the Peace of such original union of counties for the services thus performed for the junior county being verified by affidavit before a commissioner for taking affidavits for the county or union of counties, the treasurer of the junior county shall pay the amount of such accounts out of the like moneys as hereinafter provided with respect to the payment of similar accounts by the treasurers of other counties, and such payments shall in like manner be allowed in the accounts of the treasurer. Treasurer of junior county to pay accounts therefor. R. S. O. 1887, c. 52, s. 40.

41. The Jurors' Rolls shall each be divided into townships, villages and wards, or other like subdivisions answering to the local divisions of the counties, and of the cities and towns embraced within the limits thereof, and such subdivisions, and also the names within each subdivision respectively, shall be arranged alphabetically, and all the names in each of such Rolls thus arranged, shall be numbered with a series of current numbers from "1" forward. How such Jurors' Rolls are to be divided and names arranged and numbered. R. S. O. 1887, c. 52, s. 41.

42. To each of such Rolls in the Jurors' Book shall be subjoined a certificate from the Clerk of the Peace, who prepared the same, that he has carefully compared such Roll with the reports made by the several Selectors of Jurors for the different townships, villages and wards and other local divisions of the county or union of counties, and the cities and towns embraced within the limits of the same for the year, as such reports remained on file in his office on the 25th day of October in such year, and that the Roll contains a true and correct transcript of the names and additions of all persons so selected and reported to serve as Jurors as aforesaid. How the Rolls are to be certified. R. S. O. 1887, c. 52, s. 42; 52.V. c. 10, s. 6.

43. The Clerk of the Peace for each county shall, on the first day of the Court of General Sessions of the Peace for the county, held next after the 10th day of November in each year, bring into Court and publicly deliver to the Judge presiding at such Court, the Jurors' Book so prepared Clerk of the Peace to bring Jurors' Book into General Sessions yearly and make oath—

by him as aforesaid for the then next year, together with the Jurors' Books for such and so many of the then next preceding years as may be required for proceeding with the selecting of the Jury Lists as hereinafter directed, and shall thereupon make oath in open Court :

That he has compared Jurors' Rolls.

1. That he has carefully compared the Jurors' Rolls in the first mentioned Jurors' Book with the reports made by the several Selectors of Jurors for the several townships, villages and urban wards within the county, as the same remained on file in his office on the 25th day of October preceding, and that to the best of his knowledge and belief the said Jurors' Rolls contain a true and correct transcript of the names and additions of all persons so selected, balloted and reported by such Selectors of Jurors as aforesaid ;

That the Jurors' Books are those remaining on file.

2. That the Jurors' Books secondly above mentioned are those remaining on file in his office for the years to which they purport respectively to belong, and that all entries in such last mentioned books were truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth. R. S. O. 1887, c. 52, s. 43.

If the Clerk has been changed the oath to be modified.

44. If the Clerk of the Peace has not been in office during all the time that the Jurors' Books have been on file in the office of the Clerk of the Peace for the county or union of counties, then he shall make oath, in open Court, that all entries in such books made during the time that he has been in office, have been truly and faithfully made therein, without fraud or collusion of any kind, and according to the very truth, and that he had no reason but to believe, and does therefore verily believe, that all other entries made therein prior to his appointment, were in like manner truly and faithfully made therein as aforesaid. R. S. O. 1887, c. 52, s. 44.

The oath to be modified also when the books are brought in for the first time.

45. On the first occasion of bringing into Court a Jurors' Book for any county, or union of counties, there being no Jurors' Book for any preceding year for such county or union of counties, the oath to be made by the Clerk of the Peace shall be modified so as to be adapted to such circumstances. R. S. O. 1887, c. 52, s. 45.

If the clerk of the peace suspects previous errors or fraud, he is to state the same.

46. If any Clerk of the Peace is unable to make the oath required by section 44 of this Act, as to the entries made in any such Jurors' Books previous to the time of such book coming into his custody, or has reason to suspect that any original entries in any of such books have, after their original completion, been erased, mutilated or altered, he shall in lieu of that part of the oath, make oath that, as to such entries, he is unable to speak, but that from circumstances which have come to his knowledge, or of which he has been informed, he has reason to doubt the correctness thereof, or of some parts thereof, or has reason to suspect that some of the original

entries in some of the books have been erased, mutilated or altered, as the case may be. R. S. O. 1887, c. 52, s. 46.

47. In every case in which the Clerk of the Peace has made an affidavit in the terms of the last preceding section of this Act, the Court of General Sessions of the Peace shall, immediately after the selection has been completed, either on the same or some subsequent day, examine and enquire, by the oath of such persons as may be informed thereof, into the supposed incorrect entries, erasures, mutilations or alterations, their nature and extent, and by whom, when and for what purpose they were made, and shall punish the parties found to have made the incorrect entries, erasures, mutilations or alterations, by fine or imprisonment in their discretion, and shall cause the incorrect entries, erasures, mutilations or alterations to be rectified, and the books restored to their original state as nearly as may be, according to the best information they have been able to obtain of or concerning the same. R. S. O. 1887, c. 52, s. 47.

The General Sessions shall inquire into the matter.

48. The Judge presiding at the Court shall thereupon certify under his hand and seal, in such books respectively, the receipt of the books and the oath or affirmation upon which the same have been received, and a remembrance of the same shall, by the proper officer, be also made in the minutes of the Court. R. S. O. 1887, c. 52, s. 48.

The receipt of the books, etc., to be certified by the Chairman.

49. The County Selectors shall be the Selectors of Jurors from the Jurors' Rolls, within their respective counties. R. S. O. 1887, c. 52, s. 49.

County Selectors to be Selectors of Juries.

50. The Court of General Sessions may, if necessary, be adjourned from time to time for the selection of Jurors, and the Selectors shall attend for that purpose on the day or days appointed. R. S. O. 1887, c. 52, s. 50.

General Sessions may adjourn for selection and Selectors shall attend.

51.—(1) On the day appointed for the selection, or on the day to which the selection may be adjourned, the Selectors shall attend, and shall, before entering upon the performance of their duties, severally make and subscribe an oath or affirmation in the form following:

Selectors to be sworn.

"I, A. B, do swear (or affirm, as the case may be) that I will truly, faithfully and impartially, without fear, favour or affection, and to the best of my knowledge and ability, perform the duty of a Selector of Jurors, and will select from the proper lists the requisite number of the most fit and proper persons to serve as Jurors for the year of our Lord 18 . . . So help me God.

Form of oath.

"Sworn (or affirmed before me at
 , the

day of 18
 (Signed) C. D.,
 J. P.

(Signed) A. B.

(2) Any Justice of the Peace may (within his jurisdiction) administer such oath or affirmation; and he shall cause

How administered and recorded.

an entry thereof to be forewith made in the minutes of the Court of General Sessions in the presence of the Judge presiding at the Court. R. S. O. 1887, c. 52, s. 51.

County selectors to determine the number of petit jurors to be drafted and returned to each court.

52. The County Selectors shall by resolution determine the number of Petit Jurors to be drafted and returned to any Sittings of the High Court, General Sessions of the Peace, or County Court, for the current or ensuing year; and it shall be the duty of the Clerk of the Peace forthwith, thereafter, to transmit to the Central Office of the High Court, at Osgoode Hall, Toronto, and to the Clerk of the County Court, a certified copy of such resolution, and the said copies shall be filed in the said offices. R. S. O. 1887, c. 52, s. 52.

Power to amend resolutions.

53. The County Selectors may amend any of their resolutions, and either increase or decrease the number of Jurors to be selected and returned by the municipalities, the number to be selected by such County Selectors, or the number of Petit Jurors to be drafted and returned to any sittings of the High Court, General Sessions of the Peace, or County Court, and in such case due notice thereof shall be given by the Clerk of the Peace to the proper parties. R. S. O. 1887, c. 52, s. 53.

Selection of jurors from jurors' rolls.

54.—(1) The last mentioned Selectors of Jurors shall then proceed to select from the Jurors' Rolls the names of the requisite number of persons to serve as Jurors for such year being those persons who, in the opinion of the Selectors or of a majority of them, are, from the integrity of their characters, the soundness of their judgment, and the extent of their information, the most discreet and competent for the performance of the duties of Jurors, and in making such selection the Selectors may, if they think fit, select a proportion of the names for each jury list from each local municipality.

Clerk of peace to enter names of jurors selected.

(2) The Selectors shall first proceed to select the Grand Jury list for the High Court, and when they or a majority of them have decided upon the selection of any person named on the Jury Rolls, the names and additions at length of such person shall, by the Clerk of the Peace, be forthwith inserted in the Minute Book of the Court, unless good cause why the same should not be so entered shall be shewn; and in order to determine the question, evidence may be taken by the Selectors upon oath, and in such case a minute of the evidence shall be taken and entered in the Minute Book of the Court.

Names selected to be inserted in list.

(3) The names so selected, with the places of residence and additions of the parties, alphabetically arranged, shall, by the Clerk of the Peace, be then copied into the Jurors' Book with the title of "The Grand Jury List for the High Court," and such list shall have a series of current numbers from "1" forward, as is hereinbefore provided with respect to the Jurors' Rolls, and also a reference to the number of each name on the Roll of Grand Jurors for the High Court.

(4) Each of such names shall, by the said Clerk of the Peace, be thereupon marked on the last mentioned roll as transferred to such Jury List, by a reference to the number belonging to such name on that list.

Clerk of the peace to enter names in the book.

(5) The list, so selected and transferred, shall be the Grand Jury List for the High Court, for the year next after the same has been so selected. R. S. O. 1887, c. 52, s. 54.

List so made to be the grand jury list for High Court.

55. After the said Grand Jury List for the High Court has been so selected and transferred as aforesaid, the said Selectors shall in like manner proceed to select and transfer from the Roll of Jurors to serve as Grand Jurors in the said Inferior Courts, to a similar list in the same book, to be called "The Grand Jury List for the Inferior Courts" for such next year, the required number of names; and the last mentioned list, so selected and transferred, shall be the Grand Jury List for the Inferior Courts for the year next after the same has been so selected as aforesaid. R. S. O. 1887, c. 52, s. 55.

Grand jury list for inferior courts to be made in like manner,

56. The Selectors shall in like manner proceed to select and transfer the required number of names from the Roll of Jurors to serve as Petit Jurors in the High Court to the Petit Jury List for the High Court for such year, and lastly from the Roll of Jurors to serve as Petit Jurors in the Inferior Courts to the Petit Jury List for the Inferior Courts for such year. R. S. O. 1887, c. 52, s. 56.

And then lists of petit jurors of High Court and inferior courts.

57. The number to be selected from the Jurors' Rolls for a Jury List shall be the number of Grand Jurors that the County Selectors have determined to be requisite for the year, and of Petit Jurors for the High Court and Inferior Courts respectively, the number theretofore determined to be requisite as the panels for the year by the County Selectors, with one-fourth the number thereof added thereto. R. S. O. 1887, c. 52, s. 57.

Number to be selected for jury list.

58. The Selectors may select all or any of the Jury Lists before the previous ones or all of them have been transferred to the Jurors' Book. R. S. O. 1887, c. 52, s. 58.

Selectors may select any jury list before previous ones transferred to jurors' book.

59. So soon as the four Jury Lists have been so selected and transferred, the presiding Judge and Clerk of the Peace shall certify under their hands in the said book, immediately after each of such Jury Lists, that the same was on such a day duly selected from the proper roll in open court, as the law directs; whereupon such Jurors' Book, with the Jury Lists so certified, shall be deposited with the Clerk of the Peace to be filed in his office. R. S. O. 1887, c. 52, s. 59.

The chairman and clerk of the peace to certify books.

60. All the duties by this Act required of the Judge presiding at the General Sessions of the Peace, shall and may in

If chairman absent, presiding justice to act.

his absence be performed by any Justice elected by the Justices present to preside as chairman *pro tempore*. R. S. O. 1887, c. 52, s. 60.

If the Jury Lists are not made at the time appointed the Lieut.-Gov. may appoint another day for the purpose.

61. In case from any cause such Jury Lists or either of them be not selected pursuant to the provisions of this Act, in any county, the Lieutenant-Governor may, by warrant under his Privy Seal, of which a copy shall be published in the *Ontario Gazette* of the Province, and also (if there be such) in one public newspaper published in the county, as the case may be, fix a day not sooner than fourteen days from the publication of the warrant in the *Ontario Gazette*, and also a place in the county for holding a special sittings of the Court of General Sessions of the Peace for the purpose of selecting the Jury Lists as hereinbefore directed; and the several provisions and clauses of this Act, relating to the sittings of the Court, in presence of which the selection of the Jury Lists is hereinbefore directed to be made, shall extend and apply to and be in force with respect to such special sittings. R. S. O. 1887, c. 52, s. 61.

SELECTION IN THE CASE OF A SEPARATION OF UNITED COUNTIES.

Assessment rolls, jury books, etc., continue valid for the counties affected, respectively, after separation.

62. In cases where the separation of a junior county from a senior county or remaining counties takes place at any other time than upon, from and after the 1st day of January in each year, under the general law applicable to such separations, the Assessment Rolls, the Jurors' Books, the Jurors' Rolls and the Jury Lists, made for the united counties, shall, for the purposes of this Act, so far as the same apply to or contain the names of persons rated for or as resident in the senior county or remaining counties and in the junior county respectively, be the Assessment Rolls, Jurors' Books, Jurors' Rolls, and Jury Lists, for the said respective counties to all intents and purposes as if the same had been made up by and for such counties respectively. R. S. O. 1887, c. 52, s. 62.

Provision for increasing number of names on rolls if necessary.

63. In such cases of separation the Court of General Sessions of the senior county or remaining counties, and of the junior county, may, on the summons of the presiding Judge in case it may be necessary to increase the number of names on the Jurors' Rolls, meet at such time after the separation as may be convenient, and add such names to the Jurors' Rolls as may be considered to be expedient, and the rolls shall be as valid, to all intents and purposes, as if the same had been made at the usual time and in the ordinary manner, under this Act. R. S. O. 1887, c. 52, s. 63.

Clerk of the peace for senior county to furnish copies for junior county.

64. The Clerk of the Peace for the county which was the senior county before the separation, having the custody of the Jurors' Books, Jurors' Rolls and Jury Lists, shall make and deliver copies of the same respectively, to the Clerk of the

Peace of the former junior county which has been separated, on demand made for that purpose ; such copies shall be certified under the hand of the Clerk of the Peace delivering the same, as true copies of the originals, and be delivered within one week after such demand made, under a penalty of \$200, for the use of Her Majesty, Her heirs and successors. Penalty for default. R. S. O. 1887, c. 52, s. 64.

65. The Clerk of the Peace so receiving the same shall pay to the Clerk of the Peace so delivering them, the like charges as he is entitled to for the like services performed for his own county and office. Charges for such copies. R. S. O. 1887, c. 52, s. 65.

JURY PROCESS.

66.—(1) The Judges, Justices and others, to whom the holding of any sittings of the High Court, General Sessions of the Peace or County Court by law belongs, or some one or more of such Judges, Justices or others, may for that purpose issue precepts to the Sheriff or other proper officer for the return of a competent number of Grand Jurors for criminal cases for such sittings, and of such number of Petit Jurors as the county Selectors of Jurors shall have determined as the number to be drafted and returned for the trial of such issues or other matters of fact in cases criminal and civil as it may be competent to such Petit Jurors to try at such sittings, according to law. Judges to issue precepts to the Sheriffs.

(2) Nothing in this Act contained shall prevent the Judges, Justices or others issuing such precept or precepts, from requiring in and thereby the return of any number of Petit Jurors greater than the number so determined, if in his or their opinion the same may be required, but they shall have, possess and exercise all such rights and powers in that behalf as they had prior to the passing of this Act. R. S. O. 1887, c. 52, s. 66.

(3) The precepts to the Sheriff for the return of Grand Jurors for the sittings of the Court of Oyer and Terminer and General Gaol Delivery, and for the General Sessions of the Peace, shall command the return of thirteen of such Grand Jurors and no more, and the panel of Grand Jurors for any of the aforesaid courts shall consist of thirteen Grand Jurors. Number of Grand Jurors. 55 V. c. 12, s. 2 ; 58 V. c. 15, s. 1.

67.—(1) The Judge of the County Court for the county, after the issue of the precept to the Sheriff, may, at any time prior to the day appointed for the sittings of the High Court, if it appears to him expedient, by order under his hand and seal, and the presiding Judge may, at any time before or during the sittings of such Court, by order under his hand and seal, direct the Sheriff to return any additional number of Petit Jurors to such sittings. Judge of county court may order additional petit jurors

(2) And the Judge of the County Court, or Chairman for the time being of the General Sessions of the Peace, after the issue of the precept, may, at any time prior to or during the sittings of the County Court or General Sessions of the Peace, by order under his hand and seal, direct the Sheriff to return an additional number of Petit Jurors to the sittings of such County Court or General Sessions of the Peace.

(3) The Sheriff shall, upon the receipt of any such order, proceed forthwith to draft such additional number of Jurors in the manner provided by this Act, and shall add their names to the panel, and shall forthwith thereafter proceed to summon them. R. S. O. 1887, c. 52, s. 67.

Number of
petit jurors
to be returned.

68. The number of Petit Jurors to be returned on any general precept for the return of Petit Jurors for any sittings of the High Court, General Sessions of the Peace, or County Court shall be the number determined by the County Selectors, unless by the direction of the Judges authorized or appointed to hold such sittings, or one of them, who may by order or precept, under hand and seal, direct that a greater or lesser number shall be the number to be returned, or unless the Judge of the County Court shall as hereinbefore provided otherwise order. R. S. O. 1887, c. 52, s. 68.

Judge may
order greater
or lesser num-
ber.

Proper officer
in Central
Office
to procure pre-
cepts for re-
turn of panels,
and transmit
to proper
officers.

69. It shall be the duty of the proper officer in the Central Office at Osgoode Hall, Toronto, to procure the several precepts for the return of panels of Grand and Petit Jurors from time to time required for the sittings of the High Court, and to transmit the same to the several Sheriffs or other officers to whom the return of such precepts severally belongs. R. S. O. 1887, c. 52, s. 69, part; 59 V. c. 18, Sched. (36).

Time for pro-
curing pre-
cepts.

70. Where the day is not fixed by law, he shall procure the precepts as soon as conveniently may be after the commission or other day has been appointed upon which the Jurors to be returned upon the precepts are to be summoned to attend; and where the day is fixed by law, then as soon as conveniently may be after the close of the last preceding sittings of the same Courts. R. S. O. 1887, c. 52, s. 70.

Sheriff may
return the
same panels to
General Ses-
sions and
County
Courts;

71. The Sheriff may return the same panels to the precepts for the return of panels of Petit Jurors for the sittings of the Court of General Sessions of the Peace, and for the sittings of the County Court, in all cases where the same day is appointed for holding such respective sittings. R. S. O. 1887, c. 52, s. 71.

According to
the precept;

72.—(1) In any county in which any Justice of the Supreme Court of Judicature for Ontario thinks fit so to direct, the Sheriff, to whom the return of the precept for the trial of causes at Nisi Prius for such county belongs, shall empanel and summon such number of Petit Jurors, not exceeding one

hundred and forty-four in any county (except the counties of York and Wentworth, and in the said counties last mentioned, not exceeding in the County of York three hundred and eighty-four, and in the County of Wentworth two hundred and sixteen), as such Justice may think fit to direct, to serve indiscriminately on the criminal and civil side.

Within certain limits as to numbers.

(2) Where such Justice so directs, the Sheriff shall divide such Jurors equally in two sets, the first of which sets shall consist of the necessary number of those first drawn upon such panel, and such Jurors shall attend and serve for so many days at the beginning of such sittings as such Justice, within a reasonable time before the commencement of such sittings, directs, and the Jurors of the second set shall consist of the residue of such Jurors, and such Jurors shall attend and serve for the residue of the sittings.

Where two sets of Jurors may be summoned.

(3) The Sheriff shall in the summons to every Juror, in each of such sets, specify whether the Juror named therein is in the first or second set, and at what time the attendance of such Juror will be required.

Names therein to be designated.

(4) During the attendance and service of the first of such sets, the Juries on the civil side shall be drawn from the names of persons in that set, and during the attendance and service of the second of such sets, from the names of the persons in such second set.

When to be drawn from first set and second set.

(5) In case an order for a view has been obtained, in a cause to be tried by a Jury taken from such panel, the Judge before whom such case is to be tried, shall, on the application of the party obtaining the order, appoint that in case the name of any one of the viewers stands in the panel among the first half of the names therein, the names of all the viewers shall by such Sheriff be placed in the first of such sets, and that the case shall be tried during the attendance and service of that set of Jurors. R. S. O. 1887, c. 52, s. 72.

If a view has been granted.

73. The High Court and the Judges thereof shall respectively have the same powers and authority as heretofore in issuing any writ or precept, or in making any award or order orally or otherwise for the return of a Jury for the trial of any issue before any of the Courts, or for the amending or enlarging the panel of Jurors returned for the trial of any such issue; and the return to any such writ, precept, award or order shall be made in the manner heretofore used and accustomed, and the Jurors shall, as heretofore, be returned from the body of the county, and not from any township, or from any particular venue within the county, and shall be qualified according to this Act. R. S. O. 1887, c. 52, s. 73.

The High Court may issue writs and precepts as heretofore.

74. The several directions in this Act contained, respecting the issue of precepts for the return of a panel of Grand Jurors

The directions for precepts, etc., at sittings of High Court

to apply also
to the General
Sessions.

for the sittings of the High Court, as well as for the execution and return of the precepts, with all things touching the same, shall in all particulars be observed and followed with respect to the sittings of the General Sessions of the Peace. R. S. O. 1887, c. 52, s. 74.

And county
courts.

75. The several directions in this Act contained respecting the issue of precepts for the return of a general panel of Petit Jurors for the sittings of the High Court, as well as for the execution and return of the precepts with all things touching the same, shall be observed and followed in all particulars with respect to the sittings of the several County Courts, except that the number of Petit Jurors to be summoned in the County of York shall not exceed two hundred and eighty-eight. R. S. O. 1887, c. 52, s. 75.

If the sheriff
a party, the
county court
to issue a pre-
cept to the
coroner.

76. The Judge of the County Court if required by either plaintiff or defendant in an action where the Sheriff is the opposing party, shall issue a precept to a Coroner of his county, at least fourteen days before the week in which the General Sessions of the Peace are to be holden, requiring him to summon, and he is hereby directed thereupon to summon, the number of Jurors expressed in the precept, to be and appear at the time and place when and where the General Sessions are to be holden, on the same day on which such Sessions are generally holden, from whom a Jury shall be taken for the trial of the issue or the assessment of damages in like manner as practised in cases at Nisi Prius. R. S. O. 1887, c. 52, s. 76.

Writs of
venire facias
juratores to
direct the re-
turn of twelve
jurors.

77. Every writ of *venire facias juratores*, where necessary for the trial of any issue, civil or criminal, or on any penal statute, in any of the Courts hereinbefore mentioned, shall direct the Sheriff, or other officer to whom the same is directed, "to return twelve good and lawful men of the body of his county, qualified according to law," and the rest of the writ shall proceed in the accustomed form. R. S. O. 1887, c. 52, s. 77.

What the pre-
cept shall ex-
press.

78. Every precept issued for the return of Jurors for sittings of the High Court, General Sessions of the Peace, or County Court, shall in like manner direct the Sheriff, or other officer to whom the same is directed, "to return a competent number of good and lawful men of the body of his county, qualified according to law," and shall not require the same to be returned from any township, or from any particular *venue* within the county. R. S. O. 1887, c. 52, s. 78.

Summoning
of jurors
for City of
Toronto and
County of
York.

79. Precepts and writs of *venire facias juratores* for the County of York shall be directed to the Sheriff to whom is assigned the Court for which the Jurors are to be summoned, and the Sheriff (whether of Toronto or of York), to whom any

precept to summon Jurors for the sittings of any Court in Toronto or any writ of *venire facias juratores*, or any like writ addressed, shall summon the Jurors necessary for such Court, and make all proclamations, and give all notices, not only from and in his own bailiwick, but also from and in the bailiwick of the other of the said Sheriffs, and for these purposes each of the said Sheriffs have equal power and authority in either bailiwick. 51 V. c. 6. s. 3.

80. Except in trials at bar, the writ of *venire facias juratores*, where by law necessary, may be tested on the day on which the same issues and be made returnable on any day in Term or Vacation, and except in trials at bar, the writ of *distringas juratores* and *habeas corpora* may be tested either on the return day of the *venire* or any subsequent day, and as well after as before or on the day appointed for the sittings of the Court at which the cause, in which the same is sued out, is intended to be tried, and any such process may be sued out of the office of the Deputy Clerk of the Crown and Pleas or Local Registrar of the High Court in the proper county as well as out of the principal office at Toronto. R. S. O. 1887, c. 52, s. 79.

Teste, etc., of writs for the summoning of jurors, except in special instances.

81. In a writ of *habeas corpora juratorum* or *distringas juratores*, it shall not be requisite to insert the names of all the Jurors contained in the panel, but it shall be sufficient to insert in the mandatory part of such writs respectively—"the bodies of the several persons in the panel to this writ annexed named," or words of the like import, and to annex to such writs respectively panels containing the same names as were returned on the panel to such *venire facias*, with their places of abode and additions. R. S. O. 1887, c. 52, s. 80.

Contents of writs of *habeas corpora juratorum*, etc.

82.—(1) For the trial of issues in cases, whether criminal or civil which come on in course for trial at any sittings of the High Court, General Sessions of the Peace or County Court, it shall not be necessary to sue out any writ of *venire facias juratores* or any other jury process, but the award of such process by the Court and the entry of such award where necessary on the roll, together with the return of a panel of Jurors upon the General precept issued for such sittings, and the trial of such issues respectively by a Jury taken from such general panel in the manner herein provided, shall be sufficient, and shall be as valid and effectual in law as if such *venire facias juratores*, or other process, had been actually and regularly sued out in each case, and the names of the Jurors had been regularly returned upon such Jury process.

Writs of *venire facias juratores*, etc., not necessary at the Assizes, etc.

(2) Nothing in this section contained shall extend to any issue to be tried at bar, or by a Special Jury, or by a Jury *de ventre inspiciendo*, or in a case in which a view has been

Trials at bar not to be affected.

granted, or to any other case in which it is now necessary to sue out such writ.

Talesmen to be deemed taken from the general panel.

(3) Every Jury of which some of the Jurors have been regularly taken from such general panel shall, notwithstanding its being completed by the award of a *tales de circumstantibus*, be deemed to have been taken from such general panel for the purposes of this section.

When view is granted what sheriff shall do on the *venire facias juratores*.

(4) To every *venire facias* directed to a Sheriff in a case in which a view has been granted, and which *venire facias* is not endorsed for the return of a Special Jury thereon, such Sheriff shall return the same Jurors as those whose names are inserted in the panel returned upon the general precept for the sittings at which such cause is to be tried. R. S. O. 1887, c. 52, s. 81.

What to be done if cause not tried at the first court in which a *venire facias juratores* is returnable.

83. If, when the cause is at issue, any plaintiff or any defendant in *quare impedit* or *replevin* has sued out a writ of *venire facias* upon which a writ of *habeas corpora* or *distringas* with a *nisi prius* has issued in order to the trial of the said issue at the sittings of the High Court, and does not proceed to trial at the first sittings after the test of such writ of *habeas corpora* or *distringas*, then (except when a view by Jurors is directed), such plaintiff, or defendant, whenever he intends to try the issue at any other sittings, shall sue forth a new writ of *venire facias*, commanding the Sheriff or other officer to return anew twelve good and lawful men of the body of the county qualified according to law, and the rest of the writ shall proceed in the accustomed manner, and such writ being duly returned, a writ of *habeas corpora* or *distringas* with a *nisi prius* shall issue thereupon, upon which the plaintiff or defendant may proceed to trial, as effectually to all intents and purposes, as if no former writ of *venire facias* had been prosecuted in that cause, and so *toties quoties* as the case may require. R. S. O. 1887, c. 52, s. 82.

Former powers of Court and Judges in trials by jury not abridged, unless by express provisions.

84. Nothing in this Act contained shall change or alter any privilege of Parliament or of the Provincial Legislature, or shall alter, abridge or affect any power or authority, which any Court or Judge has when this Act takes effect, or any practice or form, in regard to trials by Jury, Jury process, Juries or Jurors, except in those cases only where any such power or authority, practice or form, is repealed or altered, or is inconsistent with any of the provisions hereof. R. S. O. 1887, c. 52, s. 83.

DRAFTING PANELS FROM JURY LISTS.

How sheriffs to draft panels of jurors.

85. Every Sheriff or other officer to whom any writ of *venire facias* or precept for the return of Jurors is directed, shall, to such writ or precept, return a panel of the names of the Jurors contained in the proper Jury List for the year, whose names shall be drafted from such list in the manner hereinafter mentioned. R. S. O. 1887, c. 52, s. 84.

86. If there be no Jurors' Book, or certified copy thereof, in existence for the year, the Sheriff may return to any such writ or precept a panel of Jurors selected in like manner from the proper Jury List in the Jurors' Book of the nearest preceding year, for which there is a Jurors' Book, or certified copy thereof, in existence. R. S. O. 1887, c. 52, s. 85.

If no juror's book for the year.

87. If there be no Jurors, or not a sufficient number of such Jurors upon any Jury List upon which a panel is so required to be drafted, liable to be drafted and to serve upon such panel, the Sheriff may return to the writ or precept a panel of Jurors selected in like manner, or the residue of whom respectively have been selected in like manner, from the proper Jury List in the Jurors' Book of the nearest preceding year for which there is a Jurors' Book, or certified copy thereof, in existence. R. S. O. 1887, c. 52, s. 86.

If not a sufficient number on the lists.

88. Upon any Sheriff or other officer being called upon to return a panel of Jurors, whether Grand or Petit, he shall give public written notice in his office, and also on the door of the Court House of the county, or if there be no Court House, then in some other public place, of the day and hour at which he will attend at the office of the Clerk of the Peace to draft such panel of Jurors from the Jury List, and at such time and place he shall proceed to draft the panel by ballot from the Jury List in the presence of the Clerk of the Peace and any two Justices of the Peace of the county, who, upon reasonable notice from the Sheriff, are hereby required to attend; and for such services the said Justices shall each receive the sum of \$1 for each of such panels drafted, which sums shall be paid by the treasurer, on receipt of the Sheriff's certificate that such service has been performed. R. S. O. 1887, c. 52, s. 87; 60 V. c. 15, Sched. A (17).

What notice Sheriffs shall give.

Amount to be paid Justices of the Peace for each panel.

89. If the Sheriff or other officer has sufficient time he shall give every such notice at least eight days before the drafting of the panel, and if there be not sufficient time for that purpose, he shall give such notice as soon after his receipt of the precept or writ as conveniently may be. R. S. O. 1887, c. 52, s. 88.

Notice to be eight days, if time admits.

90. If the drafting or completing of the panel, at the time appointed, be prevented by unavoidable accident, the same may be had or completed at any other time in the presence of the Clerk of the Peace and two Justices of the Peace upon a similar notice being first given of such time. R. S. O. 1887, c. 52, s. 89.

The drafting if not completed may be subsequently.

91. In proceeding to draft a panel of Jurors from the Jury List the Sheriff or other officer to whom the return of the panel belongs, shall in the first place prepare a proper title or head-

How sheriff to prepare a panel.

ing for the panel of Jurors to be returned, to which he shall fix an appropriate number according as such panel by the Jurors' Book appears to be the 1st, 2nd, 3rd or subsequent panel drafted, from such Jury List, and the title or heading shall set forth the number of Jurors to be returned in words at length, or (where such Sheriff has a discretion as to such number) the number that, in the exercise of such discretion, he has determined to return, and the number when discretionary shall not be altered after the same has been so inserted in such title or heading. R. S. O. 1887, c. 52, s. 90.

Ballots for
drafting
panel.

92. In the second place, the Sheriff or other officer shall append to such title or heading, a list of numbers from "1" forward to the number required, and shall prepare a set of ballots or pieces of parchment, card or paper of uniform and convenient size, such set containing the same number of ballots as there are numbers on the Jury List from which the panel is to be drafted, allowing one number to each ballot, which number shall be printed or written on the same, and he shall then proceed to draft the panel of Jurors in the manner hereinafter mentioned. R. S. O. 1887, c. 52, s. 91.

How panel of
jurors to be
drafted.

93. The manner of drafting the panel shall be as follows, that is to say :

1. The Sheriff, or other officer to whom the return of the panel belongs, shall place the ballots promiscuously in a box or urn to be procured by him for that purpose, and shall cause such box or urn to be shaken so as sufficiently to mix the ballots, and he shall then openly draw from the said box or urn indiscriminately one of the said ballots, and declare openly the number of such ballot, whereupon the Clerk of the Peace, or one of the Justices of the Peace, present as aforesaid at such drawing, shall immediately declare aloud the name to which such number is appended in the Jury List from which the panel is drafted ;

2. And thereupon, if such person is exempt from being drafted or serving upon such panel, under section 6 of this Act, or if upon the face of such Jury List it appears that the person whose number has been so drafted had previously been drafted to serve on a panel drafted from such Jury List in obedience to a precept for the return of a general panel for any Sittings of the High Court, General Sessions of the Peace, or County Court, and that such person had actually attended and served upon such panel, and if a sufficient number of names to complete the panel, then in course of being drafted, remain on such Jury List without taking any of those who had been previously drafted from the same list upon any former panel, the Sheriff shall publicly announce the same, and that the name of the person so drafted is, on such account, not inserted in the panel ;

3. If upon examination of such Jury List no such cause appears for omitting the name of such person from the panel then being drafted, the name and addition of the person whose name has been so drafted shall be thereupon written down on a sheet of paper provided for that purpose, and such name shall, by the Sheriff, or other officer, be thereupon marked on the said Jury List, with a reference to the number which will belong to such panel in the Jurors' Book ;

4. The Sheriff shall then proceed in like manner to draft and dispose of other numbers from the said box or urn, until the necessary number for the panel to be so drafted has been completed ;

5. The names so drafted, with the places of residence and additions of the parties, arranged alphabetically, shall then, by such Sheriff, or other officer, be transcribed on another sheet of paper, with a reference to the number of each such name respectively on the Jury List, and each such name shall, by the said Sheriff or other officer, or his Deputy, be thereupon marked upon the said Jury List, with a reference to the number which belongs to such name in the panel in the Jurors' Book ;

6. The panel so alphabetically arranged and numbered, with a short statement of the writ or precept in obedience to which it has been drafted, the date and place of such drafting, and the names of the Sheriff, or other officer or his Deputy and of the Clerk of the Peace and Justices of the Peace, present at such drafting, or of at least two of them, shall then be fairly entered in the said Jurors' Book, and attested by the signatures of such Sheriff, or other officer or his Deputy, and of the said Clerk of the Peace and the said Justices, or at least two of them. R. S. O. 1887, c. 52, s. 92.

94. The names of the Jury drafted for any panel shall be kept by the Sheriff under lock and key, and unless the party applying for an examination of the panel shall file with the Sheriff or other officer an affidavit made in a cause then pending, stating that he desires to examine the same, in order to determine whether a special Jury shall be struck in such cause, and that he is a party to such cause, or is the solicitor for one of the parties therein, and that the examination is not desired and will not be used for any other purpose, such names shall not be disclosed by any person present with the Sheriff or other officer whose duty it is to draft the panel, nor by the Sheriff or other officer, nor by his Deputy or other officer or clerk, except in so far only as it may be necessary so to do, in order to prepare the lists of the panel and serve the Jury summons, until six days before the sittings of the Court for which the list has been drafted. 58 V. c. 15, s. 3.

Jury panel to
be kept by
sheriff under
lock and key.

95. The Sheriff shall, upon his return of the writ of *venire facias*, or precept, under authority of which the panel has been

The panel to
be annexed to
the writ or
precept, and a

copy sent to the Central Office or to the proper Deputy Clerk of the Crown or Local Registrar.

drafted, annex a panel to the said writ or precept, containing the names, together with the places of abode and additions of the persons so drafted upon such panel, and shall transmit one copy thereof to the office of the Clerk of the Peace of the proper county, and another to the Central Office of the High Court, at Toronto, or to the Deputy Clerk of the Crown, or Local Registrar, as the case may be. R. S. O. 1887, c. 52, s. 93.

Copies, Jurors' Books, etc., to be open to inspection.

96. The Jurors' Book, and each of such copies shall, upon the filing with the officer who has the custody thereof of an affidavit similar to that mentioned in section 94, be at all reasonable times open to inspection by litigants or their professional agents, without fee or reward. R. S. O. 1887, c. 52, s. 94; 60 V. c. 3, s. 3.

SUMMONING JURORS.

Jurors to be summoned, eight days before attendance required.

97. The proper officer shall summon every man bound to serve on Grand Juries or on Petit Juries, not being Special Juries, in any of the Courts aforesaid, eight days at least before the day on which the Juror is to attend, by delivering to him, or in case of his absence from the usual place of his abode, by leaving with some grown up person there inhabiting, a note in writing under the hand of the Sheriff, or other proper officer, containing the substance of such summons; but when the Sheriff is directed to draft and summon additional Jurors under the provisions of this Act, such eight days service shall not be necessary. R. S. O. 1887, c. 52, s. 95.

Special Jurors to be summoned, three days before attendance required.

98. The proper officer shall summon every man to serve on Special Juries in any of the Courts aforesaid, in the like manner as aforesaid, three days at the least before the day on which the Special Juror is to attend; which last mentioned day may be upon, or any day after, the first day of the sittings at which the cause is to be tried. R. S. O. 1887, c. 52, s. 96.

Judges may make rules for calling on special jury cases for trial.

99. The Judges of the different Courts may, by general rules to be made by them for that purpose, make such regulations as they deem expedient for regulating the time and manner of bringing on such Special Jury trials. R. S. O. 1887, c. 52, s. 97.

Proper officer to summon Jurors whenever required.

100. The proper officer, notwithstanding anything in this Act contained, shall summon, in the manner heretofore used and accustomed, every person required to serve upon any inquest or inquiry before a Coroner, or before any Commissioners appointed under the Great Seal of this Province, or under the seal of the Supreme Court of Judicature, or under the seal of the High Court, or to serve as a talesman upon any Jury, either for the trial of an issue, or assessment of damages, in any of the Courts aforesaid, or any matron to serve on a Jury *de ventre inspicendo*. R. S. O. 1887, c. 52, s. 98.

101. Every Sheriff and other officer to whom the return of Jurors belongs, is hereby indemnified for empanelling and returning any person as a Grand or Petit Juror named in or taken from the Grand or Petit Jurors' Rolls for the year in which he has been summoned, although such person may not have been qualified or liable to serve as such Juror for such year. R. S. O. 1887, c. 52, s. 99.

Sheriff indemnified for returning unqualified persons, if in the rolls of jurors.

JURORS, WHEN SUMMONED BY CORONERS, ELISORS, ETC.

102. The manner of drafting and striking, returning and summoning Jurors by the Sheriff upon writs of *venire facias juratores*, as prescribed by this Act, shall be observed and followed by Coroners, Elisors, and other officers having the return of jury process, and they shall for such purpose have free access at all reasonable times to the Jurors' Book in the office of the Clerk of the Peace of the proper county; and every Coroner, Elisor, and other officer, shall possess all the powers and perform all the duties in any way connected with the drafting, striking, returning, and summoning such Jurors, as in and by this Act are prescribed to or vested in the Sheriffs of the different counties, with respect to Jurors returned by them upon similar process. R. S. O. 1887, c. 52, s. 100.

How jurors to be summoned by coroners and elisors.

EMPANELLING THE GRAND JURY.

103. Where there do not appear as many as twelve of the Grand Jurors summoned upon a panel returned upon any precept to any Court of criminal jurisdiction, every such Court, upon request made for the Queen by Her Attorney-General, or any of Her Counsel learned in the law, or, in their absence, by the County Crown Attorney, or by any one thereto authorized or assigned by such Court, may command the Sheriff or other officer to whom the making of the return belongs, to name and appoint so many of such other able men of the county, as the case may be, then present, as will make up a Grand Inquest of twelve, and the Sheriff, or other officer, aforesaid, shall, at such command of the Court, return such duly qualified men as are present or can be found, to serve on such Grand Inquest, and shall add and annex their names to the panel returned upon such precept; and the Court shall proceed with those Grand Jurors who were before empanelled, together with the talesmen so newly added and annexed, as if all the said Jurors had been originally returned upon such precept. R. S. O. 1887, c. 52, s. 101.

How grand jurors to be empanelled if a sufficient number do not appear.

DRAWING JURY AT TRIAL.

104. The name of every man summoned and empanelled as a Petit Juror upon the general precept for any sitting of the

Empanelling jury at the trial.

High Court, General Sessions of the Peace, or County Court, with his place of abode and addition, shall by the Sheriff be written distinctly on a piece of parchment, card or paper, as nearly as may be of the form and size following, viz.:

<p style="text-align: center;">DAVID BOOTH,</p> <p style="text-align: center;">of Lot No. 11, in the 7th Con. of Albion,</p> <p style="text-align: center;">MERCHANT.</p>

and the names so written shall, by the direction and care of the Sheriff, be put together in a box or urn to be by him provided for that purpose, and shall be by him delivered to the Clerk of such Court. R. S. O. 1887, c. 52, s. 102.

How the clerk
is to proceed
to draw
names.

105.—(1) Where any issue is brought on to be tried, or damages are to be assessed, the Clerk shall, in open court, cause the box or urn to be shaken so as sufficiently to mix the names, and then draw out twelve of the parchments, cards or papers, one after another (causing the box or urn to be shaken after the drawing of each name), and if any of the Jurors whose names are so drawn do not appear or are challenged and set aside, then such further number, until twelve Jurors are drawn, who do appear, and who, after all just causes of challenge allowed, remain as fair and indifferent, and the first twelve Jurors so drawn, appearing and approved as indifferent, their names being noted in the minute book of the Clerk of the Court, shall be sworn or affirmed (as the case may be), and shall be the Jury to try the issue, or to assess the damages.

Names drawn
to be kept
apart, etc.

(2) The names of the men so drawn and sworn shall be kept apart by themselves until the Jury have given in their verdict, and the same has been recorded, or until the Jury have been by consent of the parties, or by leave of the Court, discharged, and then the same names shall be returned to the box or urn, there to be kept with the other names remaining at that time undrawn, and so *toties quoties* as long as any issue remains to be tried, or any damages remain to be assessed. R. S. O. 1887, c. 52, s. 103.

If another
jury is re-
quired before
the last drawn
have brought
in their ver-
dict.

106. If an issue is brought on to be tried, or damages to be assessed, at any of the said sittings before the Jury in any other cause have brought in their verdict, or been discharged, the Court may order twelve of the residue of the said parch-

ments, cards or papers (not containing the names of any of the Jurors who have not brought in their verdict or been discharged) to be drawn in the manner last aforesaid, for the trial of the issue so brought on to be tried, or for the assessment of damages, as the case may be. R. S. O. 1887, c. 52, s. 104.

107. Notwithstanding the last preceding two sections, where no objection is made on the part of the Queen, or any other party, the Court may try any issue or assess damages with the Jury previously drawn to try any other issue, or to assess damages, without their names being returned to the box or urn, and redrawn, or may order to retire any of the Jurors whom both parties consent to withdraw, or who may be justly challenged or excused by the Court, and may cause another name or other names to be drawn from the box or urn, and shall try the issue or assess the damages with the residue of the original Jury and the new Jurors who appear and are approved as indifferent, and so *toties quoties* as long as any issue remains to be tried or any damages remain to be assessed. R. S. O. 1887, c. 52, s. 105.

Several causes may be tried in succession by the same Jury.

108. Where a full Jury does not appear at a sittings of the High Court, or at a sittings of a County Court for the trial of issues or assessment of damages, or where, after the appearance of a full Jury, by challenge of any of the parties, the Jury is likely to remain untaken for default of Jurors every such Court upon request made for the Queen by any one thereto authorized or assigned by the Court, or on request made by the parties, plaintiff or defendant, or their respective solicitors, in any action, shall command the Sheriff or other officer to whom the making of the return belongs, to name and appoint, as often as need requires, so many of such other able men of the county, as the case may be, then present, as will make up a full Jury, and the Sheriff or other officer aforesaid shall, at such command of the court, return such duly qualified men as may be present, or can be found to serve on the Jury, and shall add and annex their names to any panel that has been returned upon any precept or *venire facias*, in such cause. R. S. O. 1887, c. 52, s. 106.

If a full Jury do not appear, a *tales* may be granted.

ENTRY OF SERVICE OF JURORS.

109. Immediately after the sittings of the High Court or of the General Sessions of the Peace, or County Court, the Sheriff shall, on the Jury List from which the panel of Grand Jurors (if any) returned to such sittings was drafted, and on the Jury List from which the panel of Petit Jurors returned upon the general precept to such sittings was drafted, opposite the names of the Jurors respectively, note the non-attendance or default of all the Jurors in such panels who have not duly attended and served upon such panels until discharged by the Court. R. S. O. 1887, c. 52, s. 107.

The Sheriff to note on lists names of Jurors who do not serve.

CHALLENGES.

The want of qualification a good ground of challenge.

Proviso.

Not to extend to Special Jurors.

In civil cases each party may challenge four peremptorily.

Ratepayers, members, officers, etc., of corporation may be challenged as jurors.

That a juror affirms no cause of challenge.

Either party may strike a special Jury.

New trial in special jury cases.

110.—(1) If any person not duly qualified be returned as a Juror for the trial of any issue in any cause, civil or criminal, or on any penal statute, the want of such qualification shall be a good cause of challenge, and he shall be discharged upon such challenge if the Court is satisfied of the fact; but the want of a sufficient property qualification shall not, at the trial of any such case, be a good cause of challenge, either by the Crown or by the party, nor a cause for discharging the Juror upon his own application. R. S. O. 1887, c. 52, s. 108.

(2) Nothing in this section contained shall extend in any wise to a Special Juror. R. S. O. 1887, c. 52, s. 109.

111. In any civil case, and any case upon a penal statute each party, the plaintiff or plaintiffs, on one side, and the defendant or defendants, on the other, may, on each side, except in the case of Special Jurors, challenge peremptorily, without assigning any cause for the same, any four of the Jurors drawn to serve on the trial of the cause; and the right of challenge hereby conferred shall extend to the Crown, when a party within the meaning of this section; but this shall not be construed to affect the right of the Crown to cause a Juror to stand aside until the panel has been gone through. R. S. O. 1887, c. 52, s. 110.

112. In any prosecution, action or proceeding in any civil matter to which a municipal corporation other than a county is a party, every ratepayer, member, officer, or servant of the corporation shall, on account of his being such be liable to challenge as a Juror. 55 V. c. 42, s. 425.

113. It shall not be a good ground of challenge against a person called upon to serve as a Juror that he belongs to any religious persuasion or denomination allowed by law to affirm instead of taking an oath, but every such person shall be as eligible and liable to serve on all Juries and inquests on his being affirmed, as if he had been sworn in the usual way. R. S. O. 1887, c. 52, s. 111.

SPECIAL JURIES.

114. Her Majesty, or any prosecutor, relator, or plaintiff, and any defendant in any case whatever, whether civil or criminal, or on any penal statute, excepting only on indictments for treason or felony, may in any such case triable by a Jury have the issue joined tried by a Special Jury upon suing out the necessary Jury Process for that purpose, and procuring such Special Jury to be struck and duly summoned for the day on which the trial of such case is to be had, and every Jury so struck shall be the Jury returned for the trial of such issue. R. S. O. 1887, c. 52, s. 112.

115. In the event of a new trial being ordered in any case after the verdict of a Special Jury, the *venire facias juratores* shall set forth the names of the Jurors who sat on the first

trial of such cause, or, in the event of more trials than one having been previously had, the names of all Jurors who sat upon any of such trials, and none of the Jurors who so sat on a former trial shall be returned or sit as Jurors upon any subsequent trial of the same cause. R. S. O. 1887, c. 52, s. 113.

116. In every case the party desiring a Special Jury to be struck, whether an actor in the cause or not, shall have a right in person, or by his solicitor or agent, to sue out a writ of *venire facias juratores* for that purpose, and every such writ before being delivered to the Sheriff or other officer, to whom it is directed, shall be endorsed with a direction to the Sheriff or other officer, requiring him to return a Special Jury on the same, and every Sheriff, or other officer, upon receipt thereof, shall, by a memorandum in writing upon the writ, appoint some convenient day and hour for striking such Special Jury, the day and hour so fixed being sufficiently distant to enable the party suing out the said *venire*, to give the necessary notice to the opposite party. R. S. O. 1887, c. 52, s. 114.

The party requiring a special jury may sue out a writ of *venire facias juratores*.

117. In such case the party, his solicitor or agent suing out the *venire facias*, shall give notice in writing to the opposite party, his solicitor or agent, that he has sued out a *venire facias*, in the cause, for the purpose of having a Special Jury struck therein, and of the day and hour appointed by the Sheriff or other officer for striking the same, and the notice shall be served on the opposite party, his solicitor or agent, four full days before the day so appointed, and an affidavit or affirmation of the service, or an admission in writing under the hand of the solicitor or agent on whom it has been served, shall be produced to the Sheriff or other officer, at the time appointed for striking the Special Jury, and in default thereof the Sheriff or other officer shall not proceed to strike the Special Jury upon such appointment. R. S. O. 1887, c. 52, s. 115.

Such party to give notice to the opposite party.

118. Every Special Jury to be struck under the authority of section 114 of this Act, shall, except as hereinafter provided, consist solely of persons whose names appear on the Roll of Grand Jurors for the High Court, or on the Roll of Grand Jurors for the Inferior Courts for the year in which the writ of *venire facias* is returnable. R. S. O. 1887, c. 52, s. 116.

Qualifications of special juries to be struck under section 114.

119. Every such Special Jury shall be struck in the following manner, that is to say :

How a special Jury is to be struck.

1. The Sheriff shall provide a set of ballots or pieces of parchment, card or paper, of as uniform and convenient a size as reasonably may be, and containing the same number of ballots as there are numbers on the respective Grand Jurors Rolls, from which the said Special Jury is to be struck, and the whole of the numbers of such Grand Jurors' Rolls shall be

Ballots to be prepared

printed or written upon such ballots respectively, allowing one number to each ballot, and distinguishing each number by the letters H. C. or I. C. according as it belongs to the Roll of Grand Jurors for the High Court, or to the Roll of Grand Jurors for the Inferior Courts ;

Drawing special jurors.

2. At the office of the Clerk of the Peace, at the time appointed for such purpose, in the presence of all the parties in the case and of their solicitors and agents (if they respectively attend, or 'if none of the parties, their solicitors or agents, attend, then upon such proof as is hereinbefore provided of the service of the notice of striking such Special Jury), the Sheriff shall put all the ballots in the box or urn, and after having caused the box or urn to be shaken so as sufficiently to mix the ballots, he shall draw out of the box or urn forty of the numbers, one after another, and shall, as each number is drawn, refer to the corresponding number in the Grand Jurors' Roll to which the ballot belongs, and read aloud the name to which the number is appended in the Roll ;

Objections to Jurors drawn.

3. If, at the time of so reading such name, either party, or his solicitor or agent, objects that the man whose name has been so drawn is in any manner incapacitated from serving on the Jury, and also then and there proves the same to the satisfaction of the Sheriff, the name shall be set aside, and the Sheriff shall instead thereof draw out of the box or urn another number, and shall in like manner refer to the corresponding number in the Grand Jurors' Roll to which the ballot belongs, and read aloud the name to which the number is appended in the Roll, and such name may be in like manner set aside, and other numbers and names be drawn according to the mode of proceeding hereinbefore described for the purpose of supplying names in the places of those set aside until the whole number of forty names not liable to be set aside is completed ;

If forty names cannot be obtained.

4. If in any case it so happens that the whole number of forty names cannot be obtained from the Grand Jurors' Rolls, the Sheriff shall, in like manner from the Grand Jurors' Rolls in the Jurors' Book of the nearest year for which there is a Jurors' Book or certified copy thereof in the office of the Clerk of the Peace, ballot, in addition to those already taken from the first mentioned Grand Jurors' Rolls, the number of names required to make up the full number of forty names ;

Sheriff to make lists of names chosen on ballot.

5. The Sheriff shall thereupon make out a list of the forty names, together with their respective places of abode and additions, from which list, after a reasonable time allowed in the discretion of the Sheriff for inquiry and consideration respecting the same, each party, his solicitor or agent, shall strike out twelve names. the names being so struck out by parties, one by one alternately, the party suing out the *venire facias* commencing ;

6. The Sheriff shall return upon the *venire facias* the sixteen persons whose names remain on the list to appear on the day appointed for the trial of the cause; The sixteen jurors to be summoned.

7. From the sixteen persons, or so many of them as appear in obedience to the summons, a Special Jury for the trial of the cause shall be taken by ballot in the manner hereinbefore by section 105 of this Act prescribed for the drawing of Petit Jurors from the general panel therein mentioned. R. S. O. 1887, c. 52, s. 117. How special juries formed.

120. If any of the parties in the cause neglects to attend in person or by solicitor or agent, at the striking of the Special Jury, the Sheriff, upon production of the affidavit, affirmation, or admission of service of the notice as aforesaid, and after waiting at least half an hour for the absent party, shall, if requested by the other party, his solicitor or agent, proceed to strike the Special Jury, and in case of the continued absence of such first mentioned party, the Sheriff shall, on his behalf, strike out of the list the twelve names to be, by such party, struck out of the list as aforesaid. R. S. O. 1887, c. 52, s. 118. How to proceed if either party fails to attend.

121. Immediately after the striking of the Special Jury, the Sheriff, or other officer charged with the execution of the writ of *venire facias juratores*, shall certify the sum required to pay the attendance of the Jurors for three days, and the allowance for mileage and Sheriff's fees; and the party suing out the writ shall deposit with the Sheriff or other officer the sum so certified as sufficient to pay such expenses as aforesaid, but nothing herein contained shall limit the payment required, to be made to the Jurors to the sum so deposited. R. S. O. 1887, c. 52, s. 119. Parties issuing writ of *ven. fac.* to deposit certain expenses of jurors with sheriff.

JURIES OF MERCHANTS, ETC.

122.—1 In actions between :

- (a) Merchant and Merchant; or
- (b) Trader and Trader; or
- (c) Merchant and Trader, involving one or more questions of mercantile consideration; and

In what cases juries of merchants may be had.

2 In actions between :

- (a) Manufacturer and Manufacturer; or
- (b) Mechanic and Mechanic; or
- (c) Manufacturer and Mechanic, involving one or more questions of mechanical or scientific consideration; and

3 In actions between any of the former and any of the latter involving one or more of such questions; and

4 In actions between any other persons involving one or more questions of scientific consideration;—

In what cases the Court may order a Special Jury, with or without consent of parties.

the High Court, or a Judge thereof, without the consent of parties in all but the last mentioned case, numbered 4, and with the consent of parties in the last mentioned case may order and direct such cause to be tried by a Special Jury of men belonging to the appropriate kind or kinds of business as aforesaid, or of scientific men respectively, as the case may be; but any such order not made with the consent of parties, shall be made only upon notice to the adverse party. R. S. O. 1887, c. 52, s. 120.

Contents of the order for such Jury. To be struck by Elisors.

123. In every order for striking a Special Jury, it shall be ordered that the Special Jury shall be struck, and the names of the Special Jurors be certified to the Sheriff by three Elisors, to be appointed in writing by endorsement upon the order, one by the plaintiff in the cause, his solicitor or agent, another by the defendant, his solicitor or agent, and the third by the Clerk of the Crown and Pleas, or Deputy Clerk of the Crown and Pleas or Local Registrar of the county in which the cause is pending, or in case of the Elisors disagreeing, then by the majority of the Elisors, all three being present. R. S. O. 1887, c. 52, s. 121.

The sheriff to summon jurors struck by Elisors.

124. The Sheriff upon the *venire facias* in such cause shall return and summons the persons whom the Elisors, or the majority of them, certify to him to have been struck as Special Jurors for the trial of the same. R. S. O. 1887, c. 52, s. 122.

How writ of *venire facias* to be endorsed.

125. The endorsement to return a Special Jury on the *venire facias* in every cause, shall direct the Sheriff to return a Special Jury of men of the appropriate kind of business as aforesaid, or of scientific men, as the case may be, pursuant to the certificate he may receive from the Elisors (naming them) or a majority of them in that behalf appointed by such rule. R. S. O. 1887, c. 52, s. 123.

How Special Juries are to be struck.

126. Such Special Jury shall be struck in the following manner, that is to say :

Appointment of a day.

1. The three Elisors, or a majority of them, upon the delivery to them of a copy of the order for the Special Jury and of the *venire facias* for the return of such jury, shall, at the request of either of the parties in such cause, make an appointment in writing of a day, hour and place for striking the Special Jury as by section 116 of this Act is provided with respect to other Special Juries.

List of qualified persons.

2. Upon notice of the appointment being served upon the opposite party, and the service being proved as in the said section is provided with respect to other Special Juries, the Elisors shall, at the time and place so appointed, and after

waiting the time prescribed by section 120, proceed to make a list of the names and additions of all the persons whose names appear on the Jurors' Rolls for the year in which the *venire facias* is returnable, and who in their judgment come within the description of persons required to be struck on the jury according to the exigency of the order.

3. If there are not forty such persons found upon the Rolls, and if the Elisors, or the majority of them, know of a sufficient number of persons answering the description within the county, whether such persons are otherwise qualified and liable to serve, or exempt from serving as Jurors or not, provided they are not persons disqualified from any of the causes set forth in section 10 of this Act, the Elisors, or a majority of them, shall add to the list the names and additions of a sufficient number of persons to complete the same to forty names. If there be not forty qualified.

4. If there are the names of more than forty such persons on the Rolls, the Elisors, or the majority of them, from the names of all persons on the rolls who answer such description shall, in the manner prescribed by section 119 of this Act for the striking other Special Juries, select forty of such names. If more than forty.

5. The list of the forty names being thus completed the same shall be reduced in the same manner as hereinbefore by section 119 is provided with respect to other Special Juries. Reducing the list.

6. The Elisors shall thereupon give a certificate to each of the parties to the suit, their solicitor or agent certifying the names and additions of the sixteen persons whose names remain upon the list. Names of the sixteen Jurors to be certified to parties.

7. Every person so struck on such Special Jury shall be liable to serve on the same, although exempted from serving upon juries by the general provisions of sections 6 and 7 of this Act. What exemptions shall not excuse.

8. The Sheriff or other officer to whom the *venire facias* is directed shall, upon receipt of either of the certificates, return and summon such sixteen persons accordingly. Return and summons.

9. From the sixteen persons so returned shall be selected the jury to try the cause, in the same way and under and subject to the like restrictions as section 119 of this Act provides with respect to other Special Juries. R. S. O. 1887, c. 52, s. 124. Striking jury.

127. In case a Special Jury has been struck for the trial of an issue, the talesmen, if any be required, shall be selected from the jurors empanelled upon the Common Jury panel to serve at the same Court if a sufficient number of such men can be found, and the Queen, by any one duly authorized or assigned, and every party shall, in every such case, have and may exercise their respective challenges to the talesmen so added, and the Court shall proceed to the trial of every such In special jury cases, talesmen to be taken from the general panel.

issue with those Jurors who were before empanelled, together with the talesmen so newly added and annexed, as if all the said Jurors had been returned upon the writ or precept awarded to try the issue. R. S. O. 1887, c. 52, s. 125.

The same special jury may try several such cases.

128. Nothing herein contained shall prevent the same Special Jury, however nominated, from being summoned and returned, to try any number of causes, provided the parties respectively, or their solicitors, signify in writing to the Sheriff or other officer to whom the return of juries in such cases belongs, their assent to the nomination and return of such Special Jury for the trial of their respective cases; but if a Juror has served upon one or more Special Juries at the same sittings, the Court may, upon his application, discharge him from serving upon any other Special Jury during the same sittings. R. S. O. 1887, c. 52, s. 126.

COSTS OF SPECIAL JURIES.

The party who sues out the writ, to pay fees of striking, etc.

129. The party who sues out a *venire facias* for a Special Jury in any cause, shall pay the fees for striking such Special Jury, the fees of the Jurors, and all the expenses occasioned by the trial of the cause by the Special Jury, and shall not have any further or other allowance for the same upon taxation of costs than if the cause had been tried by a common Jury, unless the Judge who tried the case certifies under his hand, in open Court, immediately after the verdict, or afterwards, upon notice at Chambers, that the same was a cause proper to be tried by a Special Jury. R. S. O. 1887, c. 52, s. 127.

Costs where special jury summoned but cause not tried.

130. If, for any reason, a cause in which a Special Jury has been summoned be not tried, the party who sued out the *venire facias* for the Special Jury shall not have any further or other allowance for the same, upon taxation of costs, than if the Jury had not been summoned, unless a Judge, upon cause shewn, certifies under his hand that the same was a cause in which it was reasonable that a Special Jury should be summoned. R. S. O. 1887, c. 52, s. 128.

VIEW BY JURORS.

Court may order a view out of the county in which case is to be tried.

131. Where in a civil case, or a case on a penal statute now pending or hereafter to be brought in the High Court it appears to the Court or a Judge thereof, that it will be proper and necessary that the Jurors or some of them, who are to try the issues in the case, should have a view of the place in question in order to their better understanding the evidence that may be given upon the trial of the issues, whether the place be situate within the County or United Counties in which the trial is to take place, or outside such

County or United Counties, in any other County, the Court or Judge may make an order containing the usual terms, and, if the Court or Judge thinks fit, also requiring the party applying for the view to deposit in the hands of the Sheriff of the County or United Counties in which such case is to be tried a sum of money to be named in the order, for payment of the expenses of the view. Deposit by party requiring view. R. S. O. 1887, c. 52, s. 129.

132. The order shall also command special writs of *venire facias* and *distringas* to issue, to the Sheriff or other officer, to whom the writs are to be directed, commanding him to have six or more of the Jurors named in the writs, or in the panels thereunto annexed (who are mutually consented to by the parties, or if they cannot agree, are drawn by ballot from the panels), at the place in question, some convenient time before the trial. Writ therefor. R. S. O. 1887, c. 52, s. 130.

133. The viewers shall, then and there, have the place in question shewn to them by two persons in the writs named, to be appointed by the Court or Judge; and the Sheriff, or officer, who is to execute the writs, shall, by a special return thereto, certify that the view has been had according to the command of the writs, and shall specify the names of the viewers. Locus in quo to be shewn to the viewers. R. S. O. 1887, c. 52, s. 131.

134. Where the parties in such case do not agree as to the jurors to be nominated to take the view, the viewers shall, by the Sheriff or other officer to whom the *venire facias juratores* in the case is directed, be drawn by ballot from the panel returned upon the *venire facias*, at some time and place to be appointed by the Sheriff or other officer for that purpose, in the like manner as by sections 104 and 105 of this Act is provided for drawing Juries from the general panel at a sittings of the High Court; but no Sheriff or other officer shall proceed to draw the viewers from the panel without having first given at least forty-eight hours' notice in writing to the respective parties in the action, of the day, hour and place of the drawing. How the viewers shall be selected. R. S. O. 1887, c. 52, s. 132.

135. Where a view has been allowed in any case, those men who have had the view, or such of them as appear upon the Jury to try the issue, shall be first sworn, and so many only shall be added to the viewers who appear, as after all defaults and challenges allowed, make up a full Jury of twelve. The viewers to be the first sworn on the Jury. R. S. O. 1887, c. 52, s. 133.

136. All the duties and obligations now imposed by law on the several Sheriffs and other persons when the place to be viewed is situate in the County or United Counties in which the case is to be tried, shall be imposed upon and attach to the Sheriffs and other persons when the place to be viewed is situate out of the County or United Counties in which the case is to be tried. Duties of Sheriffs, etc. in such cases. R. S. O. 1887, c. 52, s. 134.

MISCELLANEOUS PROVISIONS.

The duties of Sheriffs may be performed personally or by deputy.

137. The duties by this Act required of the Sheriffs of the different Counties, and those also required of the Clerks of the Peace, may be performed either by the principal officer himself, or by his deputy. R. S. O. 1887, c. 52, s. 135.

Omissions to observe the directions of this Act, not to vitiate the verdict.

138. No omission to observe the directions in this Act contained, or any of them, as respects the qualification, selection, balloting, and distribution of Jurors, the preparation of the Jurors' Book, the selecting Jury Lists, from the Jurors' Rolls, the drafting panels from the Jury Lists, or the striking of Special Juries, shall be a ground of impeaching the verdict or judgment in any action. R. S. O. 1887, c. 52, s. 136.

No person to be summoned whose name is not on the roll of jurors.

139. No man shall be liable to be summoned or empanelled to serve as a Juror in any county, city or town, upon any inquest or inquiry to be taken or made by or before any Commissioners appointed under the Great Seal of the Province, or the seal of any Court in Ontario having general jurisdiction throughout the same, or having general jurisdiction throughout any county of the same, unless the name of such person appears upon one or other of the Jurors' Rolls for the year in which such person is called upon to serve on such inquest or inquiry. R. S. O. 1887, c. 52, s. 137.

SHERIFFS' AND CORONERS' JURIES.

Exception; coroners' juries, etc.

140. Nothing in the next preceding section contained shall extend to an inquest to be taken by or before the Coroner of any county, union of counties, city or town, by virtue of his office, or to an inquest or inquiry, to be taken or made by or before any Sheriff, Coroner, or High Bailiff of any county, city or town, but the Sheriffs, Coroners and High Bailiffs aforesaid, in all counties, cities and towns shall respectively take and make all inquests and inquiries by Jurors of the same description as they were used and accustomed to do before the passing of this Act. R. S. O. 1887, c. 52, s. 138.

JURIES DE VENTRE INSPICIENDO

As to juries of matrons.

141. Nothing herein contained shall extend to a jury of matrons, or to a writ *de ventre inspiciendo*. R. S. O. 1887, c. 52, s. 139.

FEES OF JURORS.

Jurors' fees and mileage.

142.—(1) Every Grand Juror actually attending a sittings of the High Court or at the General Sessions of the Peace, and every Petit Juryman actually attending a sittings of the High Court or of the General Sessions of the Peace, or County

Courts, shall be entitled to receive in manner hereinafter provided, the sum of two dollars per day, for every day he attends such Court, and the sum of ten cents per mile for every mile he necessarily travels from his place of residence to the said Court, and such additional sum, if any, as the County Council may, by by-law, from time to time fix and determine; and the distance travelled shall be ascertained by the declaration of the Sheriff's bailiff, who summoned the Juror, or by the declaration of the Juror himself; but every Juror who makes a false declaration respecting such distance, shall forfeit his right to receive any payment for travelling to or attending such Court as a Juror. R. S. O. 1887, c. 52, s. 140; 53 V. c. 20, s. 1.

(2) When a Grand or Petit Juror who does not reside in a county town actually attends the sittings of the Court as such Juror on Saturday and on the Monday following, the intervening Sunday shall be included in the pay list by the Sheriff, and the Juror shall be entitled to be paid for such Sunday. Jurors attending on Saturdays and Mondays to be paid for Sunday.

(3) Where Jurors, who do not reside in the county town, are in attendance at Court and are informed by the presiding Judge that their attendance at Court will not be required for several days and they are at liberty to return home, or where a Grand Jury adjourns for a period of two days or more, the Jurors' per diem allowance shall be paid for two days of the period during which they are absent, as if they were actually in attendance. Absence of jurors not residents of county town by permission of judge.

(4) In lieu of such pay for Sundays or other days in the two preceding sub-sections mentioned, the Juror may have the usual mileage payable to a Juror for going to and returning from his place of residence in case a county council has passed or shall pass a by-law authorizing such mileage in any such case as aforesaid. 58 V. c. 15, s. 2. Mileage in lieu of pay.

143. No Petit Juror shall be entitled to any fee or allowance other than is provided by or under this Act. R. S. O. 1887, c. 52, s. 141. Petit jurors' fees limited by Act.

144. Every Sheriff shall make a pay list for the Petit Jurors summoned to attend any of the aforesaid Courts in the form of Schedule C to this Act, and shall attend or cause some officer to attend at the opening of the Court, on the morning of every day on which the Court sits for the trial of causes by jury, and upon the Petit Jurors being called over, shall check and mark the word "present," or "absent," as the case may be, in the proper column of the list opposite the name of every Juror, and on the last day of the sitting of the Court shall certify and return the pay list to the treasurer of the county. R. S. O. 1887, c. 52, s. 142. Sheriff to make a pay list for petit jurors.

145. The pay list, checked and certified as aforesaid, shall be a sufficient authority for the treasurer to pay to every Treasurer to pay the Jurors.

Petit Juror the sum to which he appears entitled, as certified by the list, and the treasurer shall forthwith pay every Juror the sum so appearing to be due to him on the list. R. S. O. 1887, c. 52, s. 143.

Allowance to Sheriffs.

146.—(1) Every Sheriff shall be entitled to receive from the treasurer of the county of which he is Sheriff, such sum for each pay list, and such sum per diem for checking the same every day at the opening of the Court, and for certifying and returning the same to the treasurer, as the County Council by by-law determines; and for the purposes of the payment of Jurors, the County Court and General Sessions shall be one Court, and the duty of calling over Jurors at the opening of the Court daily, shall be performed by the Clerk of which ever of the said Courts respectively is first opened. R. S. O. 1887, c. 52, s. 144.

(2) Where the County Council has not passed any by-law determining the sums to be paid to the Sheriff for the services therein mentioned, the Sheriff shall be entitled to receive from the treasurer of the County \$1 per day for checking each jury panel and \$1 each for certifying and returning the lists to the treasurer. 56 V. c. 5, s. 18.

List of Jurors to be called.

147. The Marshal or Clerk of the Court, or Clerk of the Peace, as the case may be, shall, at the opening of the Court, and before any other business is proceeded with, call over the names of the Petit Jurors, so that the Sheriff or his officer may check off those who are present or absent. R. S. O. 1887, c. 52, s. 145,

Jurors not attending not to be paid.

148. A Petit Juror not appearing when so called, shall not be entitled to any pay for the day on which he makes default. R. S. O. 1887, c. 52, s. 146.

Fees and mileage of Special Jurors in civil causes.

149. There shall be paid to every Special Juror summoned upon the trial of any issue in a civil cause, the sum of \$2 for each day's attendance at the sitting of the Court to which he is summoned, and for each day coming to and returning from the Court, together with mileage for the number of miles necessarily travelled by him, in coming to the Court, at the rate of ten cents per mile; and the sums so paid shall be the fees of the Jurors, mentioned in section 129 of this Act. R. S. O. 1887, c. 52, s. 147.

FUND FOR PAYMENT OF JURORS.

Fees on Entry of Records.

Sums to be paid with record when entered for trial in Jury cases.

150. With every record entered for trial of issues or assessment of damages by a jury, there shall be paid to the Clerk of Assize, or Deputy Clerk of the Crown, or Local Registrar of

the High Court for the County, the sum of \$3, and to the Clerks of the several County Courts the sum of \$1.50, and such sums shall be forthwith paid over to the Treasurer of the county and shall form part of the fund from which petit juries are to be paid; but the said fees shall only be charged in case there are issues to be tried by a jury; and no record shall in such case be entered for trial or assessment unless the sums before mentioned are first paid. R. S. O. 1887, c. 52, s. 148.

Record not to be entered unless sum is paid.

In Criminal Cases.

151. In criminal cases in which by law the party prosecuting, or the party prosecuted, is liable to pay the costs of the prosecution, the officer of the Court shall charge against and receive from the party so liable the sum of \$3 over and above the sum to which he is otherwise liable, and such sum of \$3 shall form part of the fund for the payment of Petit Jurors, and shall forthwith be paid over by the officer receiving it, to the treasurer of the county in which the prosecution has been carried on. R. S. O. 1887, c. 52, s. 149.

The like in criminal cases where either party is liable to pay costs.

Fines and Penalties.

152. All fines imposed upon Jurors for non-attendance levied in the several counties shall be paid to the treasurers of the said counties respectively, and shall form part of the fund for the payment of Petit Jurors under this Act. R. S. O. 1887, c. 52, s. 150.

Certain fines to go towards payment of Jurors.

County Councils to Supply Deficiency.

153. In case the sums appropriated by this Act are not sufficient to pay the Jurors, the several County Councils shall raise and appropriate such sums of money as in their judgment will be sufficient to pay the Petit Jurors according to the terms of this Act. R. S. O. 1887, c. 52, s. 151.

County councils to provide funds for paying jurors.

154. Until such provision is made, every Petit Juror shall be allowed the sum of 25 cents in every cause in which he is sworn as a Juror in a civil case in the High Court, and the sum of 12½ cents in cases in the County Courts, and the fee shall be paid by the plaintiff or his solicitor, and shall be accounted for in costs by the party charged with the payment thereof. R. S. O. 1887, c. 52, s. 152.

Until provided what fees jurors shall receive.

155. In every county in which a Petit Jury Fund is for the first time provided, the treasurer of the county shall give notice to the Sheriff of the county, who shall thereupon perform the duties imposed upon him under this Act. R. S. O. 1887, c. 52, s. 153.

County treasurer to notify sheriff when fund is provided.

Cities bound
to contribute.

156. The Municipal Corporation of any County in Ontario of which a city or a town withdrawn from the jurisdiction of the County Council forms part for judicial purposes, may demand and recover from the Municipal Corporation of the city or a town a portion of the expenses incurred by the county, in any year, for the payment, summoning, drafting, selecting and enrolling of Jurors. R. S. O. 1887, c. 52, s. 154.

Shares of fees
for jurors to
be borne by
counties, cities
and towns,

157. In case the councils of counties and of cities or separated towns do not agree as to the shares of the fees and disbursements for juries to be borne by the counties, cities and towns respectively, the same shall be determined by arbitration under the provisions of *The Municipal Act*, and the portion to be borne by the city or town shall be payable to the county immediately after the close of each year. R. S. O. 1887, c. 52, s. 155.

Rev. Stat.
c. 223.

The council
of cities and
towns to raise
the necessary
funds by as-
sessment, etc.

158. The council of the city or town shall raise by assessment the sum of money required by the city or town for the purposes of this Act, or shall pay such sum out of any moneys belonging to the city or town, and applicable to municipal purposes generally. R. S. O. 1887, c. 52, s. 156.

FEES TO OFFICERS UNDER THIS ACT.

1.—*To Selectors.*

Fees to the
Selectors
under section
17.

159. The Selectors of Jurors under section 17 of this Act shall for every selection and distribution of Jurors, and the report thereof made by them, be entitled to such sum of money as is authorized to be awarded them by the council of the municipalities of which they are respectively officers; and upon receipt of a certificate from the Clerk of the Peace that the report has been returned to him within the time limited by law, such sum of money shall be paid to the Selectors respectively by the treasurers of their respective townships, villages, towns and cities, in such manner as such municipal councils severally direct. R. S. O. 1887, c. 52, s. 157.

Fees of
County
Selectors.

160. The County Selectors of Jurors shall be entitled to the sum of \$4 each, for each day's attendance, for the purpose of selecting Jurors, and for attendance and the performance of the duties under sections 13, 14 and 15 of this Act, but when the number of Grand and Petit Jurors to be selected does not exceed five hundred, no Selector shall be entitled to be paid for a greater number of days than four, inclusive of the day of meeting, under the said sections 13, 14 and 15 of this Act. When the number to be selected exceeds five hundred, each Selector actually attending shall be entitled to be paid as for one additional day for every two hundred additional names selected, and no more. Upon receipt of a certificate from the Clerk of the Peace for the County or Union of Counties that the

duties required of such Selectors have been duly performed by them, such sum shall be paid by the treasurer of the county to every such Selector of Jurors, and the Clerk of the Peace shall be paid for his attendance at the meeting of the county Selectors the same fees as a County Selector. R. S. O. 1887, c. 52, s. 158.

2.—*To Clerks of the Peace.*

161. The Clerk of the Peace of every county shall be entitled to the following sums of money for the respective services performed by him under this Act, that is to say :

Fees to clerks
of the peace.

1. For receiving and examining the reports of selectors for each city, town, village and township, causing any deficiency which may be found therein to be supplied, and filing the same in his office. \$0 50
2. For giving certificates to selectors of Jurors, of duties having been performed ; but one certificate for all the selectors for each municipality shall be given 0 50
3. For preparing in proper form each Jurors' Book, and superintending the making up of the same (besides actual disbursements for stationer's charges). 3 00
4. For making up Jurors' Books, entering all the names and numbers, and all other matters required to be entered therein, per one hundred names 2 00
5. For each copy of the Jurors' Book required by this Act, per one hundred names 2 00
6. For each certificate required to be entered in the Jurors' Book to verify same. 1 00
7. For copy of Jury List required to be entered, per one hundred names 2 00
8. For each panel of Jurors drafted from the Jury List, per one hundred names on each Jury List. 2 00
9. For entering each panel in the Jurors' Book, with the numbers corresponding to the Jury List 2 00
10. For making up aggregate return in detail of Jurors 5 00
11. For copy thereof, and transmitting same to Provincial Secretary when required, and for office copy of the same, each. 2 00

R. S. O. 1887, c. 52, s. 159.

3.—*To Sheriffs, etc.*

162. The Sheriff or other officer of every county shall, exclusive of such fees as he may be entitled to from the parties in any action, be entitled to the following sums of money for the respective services performed by him under this Act, that is to say :

Fees to
sheriffs, etc.

1. For each panel of Jurors, whether Grand or Petit, returned and summoned by him in obedience to any general precept for the return of the Grand or Petit Jurors for any sittings of the High Court or General Sessions of the Peace or County Court respectively, under this Act. \$4 00
2. For copies of such panel to be transmitted to the proper officers, each. 1 00
3. For every summons served upon the Jurors on any panel. 0 25
4. For every mile which the Sheriff or his Deputy or Bailiffs neces-

sarily and actually travelled from the County Town for the purpose of serving such summonses (such mileage to be allowed for going only, and not for returning)	0 13
5. Advertising drafting of Jury panels.....	} 1 00
(Required by section 88)	
6. Notices to Clerk of the Peace, and Justices, each.....	} 0 50
(Required by same section).....	
7. Attending to draft Jury panels	4 00
8. Travelling to serve summons, per mile.....	0 13
9. Writing names of Jurors on cards.....	2 00

R. S. O. 1887, c. 52, s. 160; 52 V. c. 6, s. 1; 59 V. c. 18, Sched. (43).

MODE OF PAYMENT.

If there are more than one hundred names,

163. In all the foregoing cases, where there are more than one hundred, or more than an even number of hundreds of such names, if the broken number beyond the hundred or hundreds falls short of fifty names, the same shall not be reckoned, and if the broken number amounts to fifty names or upwards, the same shall be reckoned as a full hundred, but in all cases of there being altogether less than a single hundred, the same shall be reckoned as a full hundred. R. S. O. 1887, c. 52, s. 161.

How the said fees shall be paid.

164. Upon proof, by affidavit made before a commissioner authorized to take affidavits in the High Court, of the several services having been executed, or, in the case of the Sheriff, of such travel having been necessarily performed in going to effect the service of the summonses, the affidavit being accompanied with a detailed account shewing the number of miles actually and necessarily travelled in going to serve each Juror (so that at the end of the service the officer summoning the jury shall only be entitled to mileage for the number of miles actually travelled) and upon the account being properly audited, and an order of the Board of Audit being made for the payment thereof, the treasurer shall, out of any money in his hands belonging to the county, city or town respectively, not otherwise specially appropriated by Act of the Legislature, pay to such officers respectively the amount of their fees; and for all money so paid, the treasurer shall be allowed in his accounts with the county, city or town, as if the same had been paid under the special authority and direction of the Municipal Council of the county, city or town respectively. R. S. O. 1887, c. 52, s. 162.

PENALTIES.

Attaints of jurors abolished.

165. The Queen shall not, nor shall any one on her behalf, nor shall any party or parties in any case whatsoever, commence or prosecute any writ of attaint against any Jury or Jurors for the verdict by them given, or against the party or parties who have judgment upon such verdict, and no inquests shall be taken to inquire of the concealments of other inquests,

but all such attaints and inquests have been and shall remain abolished. R. S. O. 1887, c. 52, s. 163.

166. If a person, having been duly summoned to attend on a Jury, in any of the Courts hereinbefore mentioned, does not attend in pursuance of such summons, or being there called, does not answer to his name; or if a Juror, or Talesman, after having been called, is present but does not appear, or after his appearance wilfully withdraws himself from the presence of the Court, the Court shall set such fine upon every such Juror or Talesman (unless some reasonable excuse be proved by oath, affidavit or affirmation), as the Court thinks meet. R. S. O. 1887, c. 52, s. 164.

Penalty on jurors for non-attendance.

167. Where a viewer, having been duly summoned to attend on a Jury, makes default, as in the last preceding section is set forth, the Court at which he has been summoned to attend for the trial of such cause shall set upon such viewer (unless some reasonable excuse be proved as aforesaid) a fine, in the discretion of the Court, to the amount of \$20 at the least. R. S. O. 1887, c. 52, s. 165.

On viewers for non-attendance.

168. If a person having been duly summoned and returned to serve as a Juror in any county, city or town upon an inquest or inquiry, before a Sheriff or Coroner, or before any of the Commissioners mentioned in section 139, does not, after being openly called three times, appear and serve as such Juror, the Sheriff, Coroner and Commissioners respectively, shall (unless some reasonable excuse be proved on oath, affidavit or affirmation) impose such fine upon the person so making default as they respectively think fit, not exceeding \$20. R. S. O. 1887, c. 52, s. 166.

Penalty on jurors failing to attend upon inquests and inquiries, etc.

169. The Sheriff, Coroner and Commissioners respectively shall make out and sign a certificate containing the Christian name and surname, the residence and addition of every man so making default, together with the amount of the fine imposed and the cause of the fine, and transmit the certificate to the Clerk of the Peace for the county in which the defaulter resides, on or before the first day of the General Sessions of the Peace next ensuing. R. S. O. 1887, c. 52, s. 167.

Sheriff to certify defaults and transmit copies.

170. Every such Clerk shall copy the fines so certified on the roll on which all fines and forfeitures imposed at the General Sessions are copied, and the same shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects, as if they had been part of the fines imposed at the General Sessions. R. S. O. 1887, c. 52, s. 168.

Fines to be estreated.

171. If a Sheriff, or other officer as aforesaid, wilfully empanels and returns a person to serve on a jury in any of the

Penalty on sheriffs, etc., for de-

fault to perform duties assigned to them.

Courts aforesaid, whose name has not been duly drawn upon such panel, in the manner in this Act prescribed, or if a Clerk of Assize, Clerk of the Peace, or other officer of any of the Courts aforesaid, wilfully records the appearance of any man so summoned and returned who has not really appeared then, in every such case the Court shall, upon examination in a summary way, set such fine upon the Sheriff, Clerk of Assize, Clerk of the Peace, or other officer offending, as the Court thinks meet. R. S. O. 1887, c. 52, s. 169.

On sheriffs, etc., taking money as a bribe.

172. No Sheriff, Deputy Sheriff, Coroner, Elisor, Bailiff or other officer or person whosoever, shall directly or indirectly, take or receive money or other reward or promise of money or reward, to excuse any man from serving or being summoned to serve on juries, or under such colour or pretence; and no Bailiff or other officer appointed by any Sheriff, Deputy Sheriff, Coroner or Elisor, to summon Jurors, shall summon or pretend to summon any man to serve thereon other than those whose names are specified in a warrant or mandate signed by such Sheriff, Deputy Sheriff, Coroner or Elisor, and directed to such Bailiff or other officer; and if any Sheriff, Deputy Sheriff, Coroner, Elisor, Bailiff or other officer, wilfully transgresses in any of the cases aforesaid, or summons any of the Jurors, not being a Special Juror, less than eight days before the day on which he is required to attend, or summons a Special Juror less than three days before the day on which he is to attend, except in the cases hereinbefore excepted, the High Court, General Sessions of the Peace or County Court, within whose jurisdiction the offence has been committed, shall, on examination and proof of such offence in a summary way, set such fine upon every person so offending as the Court thinks proper. R. S. O. 1887, c. 52, s. 170.

On sheriffs, etc., making any unauthorized alteration in any jurors' book, or neglecting to return the same, etc.

173. If a Sheriff or Deputy Sheriff of a county, makes, or causes to be made, any alteration whatever in any of the rolls, lists or panels in any Jurors' Book, or in the certified copies thereof in their official custody respectively, except in compliance with the directions in this Act contained, or neglects or refuses to prepare the Jurors' Book, the ballots necessary for drafting the panels, striking Special Juries and drawing Juries at the trial, or neglects or omits to return the Jurors' Book, and the ballots for drafting the Jury Lists to the Court to which by this Act he is required to return the same, or neglects or omits to perform any other duty required of him by this Act, or wilfully does anything inconsistent with the provisions of this Act;

On registrars or deputy clerks of crown and pleas altering lists, etc.

2. Or, if a Registrar or Local Registrar of the High Court or a Deputy Clerk of the Crown and Pleas makes, or causes to be made, any alteration whatever in the rolls, lists or panels in any Jurors' Book, or in any copy thereof deposited in his

office, or wilfully certifies as true any copy of a Jurors' Book, or any roll, list or panel therein, which is not a true copy thereof ;

3. Or, if an assessor of a township, village or ward neglects or omits to make out and complete his assessment roll for such township, village, or ward, and to return the same to the office of the clerk of the township or village, or of the city or town, in which such ward is situated, or to the other office or place of deposit for such roll, on or before the 1st day of September, of the year for which he is such assessor, except in the cases provided for by sections 58 and 59 of *The Assessment Act* ;

Penalty on assessors not making and returning the assessment roll in proper time.

Rev. Stat. c. 224.

4. Or, if a city, town, village or township clerk, or any assessor, or other officer or person who, at the time of the annual meeting of the selectors of Jurors for any city, town, village or township, has the actual charge or custody of the assessment rolls or assessment roll of such city, town, village or township for such year, neglects or omits to perform the duties required of him by section 20 of this Act, as regards the production of the roll or rolls at the annual meeting of selectors, or the permitting the Selectors to have necessary access to the same for the purposes of their duty ;

On municipal officer not producing Assessment Roll as required.

5. Or, if a Selector of Jurors for a township, village or ward wilfully selects, ballots and reports as qualified and liable to serve as a Grand and Petit Juror any person who, according to the provisions of this Act, ought not to be so selected, balloted or reported, or takes money or other reward for so selecting, balloting or reporting, or omitting to select, ballot or report any person whomsoever, or wilfully inserts in such report a wrong description of the name, place of abode, or addition of any one so selected, balloted and reported, or neglects or omits to complete his selection, ballot and report, and to deposit the same in the proper office on or before the 25th day of October, of the year for which he acts as such Selector of Jurors ;

On selectors of jurors for wilful dereliction of duty.

6. Or, if a Clerk of the Peace, or his deputy, when acting in the performance of the duties required of him by this Act, neglects or omits to perform any duty required of him in the manner herein prescribed, or wilfully does anything inconsistent herewith ;

On Clerks of Peace for wilful dereliction of duty.

In every such case, the person so offending shall for such offence, forfeit the sum of \$200, one moiety whereof shall be paid over to the treasurer of the county and shall form part of the fund for the payment of Petit Jurors under this Act, and the other moiety thereof, with full costs, to any person who sues for the same, in any Court of competent jurisdiction, by action or information ; and every such action shall be tried by the Judge sitting alone, and without the intervention of a Jury, and when the same has been commenced in the County Court, the Judge of the County Court shall, upon the applica-

Amount of penalty, and how to be applied.

tion of either party thereto by his order direct that the same shall be tried at a sittings of the High Court, and the record may thereafter be entered and the action tried at such sittings ; but nothing herein contained shall be construed to relieve an assessor from the obligation of returning the assessment roll at an earlier period of the year, or from any penalty he may incur by not returning the same accordingly. R. S. O. 1887, c. 52, s. 171.

How pecuniary penalties shall be levied and applied.

174. Except as otherwise provided by section 152 of this Act, all fines imposed under this Act by the High Court or any Judge or other person presiding at any sittings thereof, or by the General Sessions of the Peace or County Court, shall be levied and applied in the same manner as other fines imposed by this Act. R. S. O. 1887, c. 52, s. 172.

Recovery by summary proceeding.

175. All penalties under this Act, for which no other remedy is given, may be recovered by summary proceeding before a Justice of the Peace, and the said Justice may, on complaint, hear and examine witnesses on oath or affirmation, and determine the same, and if he sees fit may mitigate the penalty to the extent of a moiety thereof. R. S. O. 1887, c. 52, s. 173.

Mitigation of penalty.

Committal for non-payment.

176. Unless the penalty is forthwith paid upon conviction, the Justice shall, by warrant under his hand and seal, cause, the same to be levied by distress and sale of the offender's goods and chattels, and for want of sufficient distress the offender shall be committed by warrant, under the hand and seal of the Justice, to the common gaol or house of correction, for such term, not exceeding six months, as the Justice thinks proper, unless the penalty is sooner paid ; and all penalties shall be paid to the treasurer of the county. R. S. O. 1887, c. 52, s. 174.

Application of penalties.

Tampering with Jurors.

177.—(1) It shall be a contempt of Court for any person interested in a civil suit or proceeding in any Court, or his solicitor, counsel, agent or emissary during the sittings of Court at which the suit or proceeding is, or is to be, entered for trial or may be tried or at any time after a Juror has been summoned, knowingly, directly or indirectly to speak to or consult with a Juror upon the Jury panel for such Court respecting such suit or proceeding, or any matter or thing relating thereto, and in case a solicitor or barrister or student at law or articled clerk is guilty of the said offence he may in addition to any other penalty be struck from the roll of solicitors or be disbarred or suspended from the practice of his profession for a limited time or his name may be erased from the list of the Law Society or removed therefrom for a limited time by a Divisional Court upon motion at the instance and in the name of the Attorney-General for the Province.

(2) This section shall not apply where a Juror is also a party to or a known witness or interested in the suit or is otherwise ineligible as a Juror in the particular suit, matter or cause, nor to anything which may properly take place in the course of the trial or conduct of the suit matter or cause. 58 V. c. 15, s. 5.

GENERAL PROVISIONS.

178. Nothing herein contained shall be construed to affect or alter any statute or law whereby the affirmation of any person belonging to certain religious societies, classes or descriptions of persons is allowed, or directed to be in all cases received and taken from such person in lieu of an oath. R. S. O. 1887, c. 52, s. 175.

Affirmations
instead of
oaths.

179. Whenever any legal proceeding in which a jury was empanelled, is required to be set out, it shall not be necessary to specify that any particular person or persons who acted as Jurors made affirmation instead of oath, but it may be stated that they served as Jurymen, in the same manner as if no Act had passed for enabling persons to serve as Jurymen without oath. R. S. O. 1887, c. 52, s. 176.

Certain allegations not necessary in setting out legal proceedings.

180. It shall be the duty of the Sheriff at the sittings of the High Court for trials by Jury and of the General Sessions of the Peace to post up in the Court room and Jury rooms and in the general entrance hall of the Court house printed copies in conspicuous type of section 154 of *The Criminal Code*, 1892. 58 V. c. 15, s. 4.

Posting up
copies of sec.
154 of Criminal Code.

SCHEDULES OF FORMS.

SCHEDULE A.

(Section 28.)

FORMS OF REPORT OF SELECTORS OF JURORS FROM ASSESSMENT ROLL.

Report of the selection and distribution of jurors for the Township of Albion (or for the Ward of St. James, in the City of Toronto), in the County of York, for the year 18 , made at the town (or city hall)

THIRD DIVISION.

THIRD DIVISION.

For the Roll of Petit Jurors to serve in Her Majesty's High Court of Justice.

NAMES	No. of Lot or House, where known to the Selectors.	Concession or Street, or unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
David Boothe	11	7	Merchant.
George Sullivan	3	4	Esquire.
Nathan Lowe	6	1	Shoemaker.
Henry Grace .....	..	7	Yeoman.
etc.			

FOURTH DIVISION.

For the Roll of Petit Jurors to serve in Her Majesty's Inferior Courts of Criminal or Civil Jurisdiction.

NAMES.	No. of Lot or House, where known to the Selectors.	Concession or Street, or unincorporated Village or Hamlet, where known to the Selectors.	ADDITIONS.
George Gule.....	7	8	Tailor.
Samuel Jones.....	15	3	Yeoman.
William Carpenter.....	7	2	Esquire.
Thomas Hoole Rogers.....	11	1	Gentleman.
etc.			

We, the above-named Selectors of Jurors for the township of Albion (or as the case may be), do hereby solemnly declare, each severally for himself, that we have made the Selection and Distribution of Jurors in this Report from the Assessment Roll of the said township for the present year, to the best of our judgment and information, pursuant to the directions of *The Jurors' Act*, and that we have so made the same without fear, favour or affection of, to or for any person or persons whomsoever, gain, reward, or hope thereof, other than the fees to which we are entitled under the provisions of the said Act.

Witness our hands and seals, the day and year last above written.

A. B. [L.S.] Town Reeve.

C. D. [L.S.] Town Clerk.

E. F. [L.S.] Assessor.

G. H. [L.S.] Assessor.

I. J. [L.S.] Assessor.

SCHEDULE B.

(Section 29.)

FORM OF JURORS' BOOK.

The JURORS' BOOK for the County of York, for the year 18 . (1)

1.—ROLL OF GRAND JURORS

To serve in Her Majesty's High Court of Justice. (2)

No. on Roll.	NAMES.	No. of Lot or House, as in Report of Se- lectors.	Concession or Street, or unincorporated Village or Hamlet, as in Report of Se- lectors.	ADDITIONS.	No. on List.	REMARKS.
	1 ALBION. (Township.)					
1	Anderson, John	16		Esquire.		Exempted, having served on G. J. List H. C., 18
2	Aylof, Graham	9	4	Gentleman.		
3	Bosworth, David	11	7	Merchant.		
4	Cameron, Peter	4	6	Yeoman.		
	(<i>Etc., to, say.</i>)					
20	Young, David	7	8	Tailor.	3	
	2 BROCK, (Township.)					
21	Allan, Simon	21	7	Yeoman.		
22	Bolland, George	5	12	Gentleman.	2	
	(<i>Etc., to, say.</i>)					
31	Wilkinson, James	13	4	Esquire.		
32	Yates, Edward	1	5	Yeoman.	144	
	3 PARKDALE, (Town.)					
	4 ST. JAMES' WARD, (City of Toronto.) (<i>Etc., to, say.</i>)					
	26 YORK, (Township.)					
503	Arthur, Thomas	3	2 from Bay.	Yeoman.	1	
504	Bull, Peter	14	1 E. Y'g'e. St.	Yeoman.		

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the several Selectors of Jurors for the different townships, villages and urban wards in the County of York, including the City of Toronto, for the year 18____, as such Reports remained with me as Clerk of the Peace on the 25th day of October in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors for such county in Her Majesty's High Court of Justice.

Witness my hand, this day of , 18

E. F., Clerk of the Peace.

2.—THE GRAND JURY LIST.

For the High Court, (2) as selected in open Court, at a General Sessions of the Peace for the County, on the _____ day of _____, 18____, being the first day of the first General Sessions of the Peace for the County, held next after the tenth day of November in the said year, by C. D., chairman of the said court, and the undersigned Selectors, pursuant to the directions of *The Jurors' Act*.

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street, or unincorporated Village or Hamlet, as in Jurors' Roll.	Township, Village or Ward.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Arthur, Thomas	3	2	From Bay, York,	Yeoman.	503	1	Served accordingly.
2	Bolland, George	5	12	Brock,	Gentleman.	22	1	Omitted to attend altogether.
3	Young, David. (<i>Etc., to.</i>)	7	8	Albion,	Tailor.	20		
144	Yates, Edward.	1	5	Brock,	Yeoman.	32	1	Served accordingly.

These are to certify that on _____, the _____ day of _____ instant, being the first day of the first General Sessions of the Peace for the County of _____, next after the 10th day of November, in this year (5), the foregoing Grand Jury List for this County for the High Court for the year 18____, was in open Court duly selected and canvassed from the Roll of Grand Jurors to serve in Her Majesty's High Court of Justice for the same year, pursuant to the directions of *The Jurors' Act*.

Witness our hands this

day of

18____.

C. D., Chairman.

E. F., Clerk of the Peace.

G. H., Warden.

Etc., Etc.

3—GRAND JURY PANELS FOR THE HIGH COURT OF JUSTICE. (2)

(a) No. 1.

PANEL of Grand Jurors returned upon a Precept from the Honourable G. H., the Honourable I. J., [etc.] Her Majesty's Justices in that behalf, tested the _____ day of _____, 18____, for the return of thirteen of such Jurors for the sittings of the High Court of Justice (*or as the precept may require*), to be held for this County on the _____ day of _____, 18____, as drafted on _____, the _____ day of _____, 18____, at the office of the

Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in the presence of K. L. and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of *The Jurors' Act*.

No. of Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or unincorporated Village or Hamlet as in Jury List.	Township, Village or Ward.	Additions.	No. on Lists.	Remarks.
1	Arthur, Thomas	3	2 From Bay,	York,	Yeoman.	1	
2	Bolland, George. (<i>Etc. to</i>)	5	12	Brock,	Gentleman.	2	
24	Yates, Edward.	1	5	Brock,	Yeoman.	144	

Witness our hands, the day and year last above written.

A. B., Sheriff.

K. L., J. P.

M. N., J. P.

(b) No. 2. (4) etc.

4.—ROLL OF GRAND JURORS.

To serve in Her Majesty's Inferior Courts (2) of Criminal Jurisdiction. (3).

No. on Roll.	NAMES.	No. of Lot or House, as in report of Selectors.	Concession or Street or unincorporated Village or Hamlet as in report of Se- lectors.	Additions.	No on List.	Remarks.
	1 ALBION. (Township.)					
1	Acland, White.	16	2	Esquire.		Exempted having served on G. J. List, H. C. 18 .
2	Adams, William.	9	4	Gentleman.		
3	Eswald, David.	11	7	Merchant.		
4	Hamilton, Peter. (<i>Etc., to, say</i>)	4	6	Yeoman.		
20	Large, George.	7	8	Tailor.	3	
	2 BROCK. (Township.)					
21	Ash, Simon.	21	7	Yeoman.		
22	Bolland, George. (<i>Etc., to, say</i>)	5	12	Gentleman.	2	
31	Wilkins, James.	13	4	Esquire.		
32	Waters, Edward.	1	5	Yeoman.	144	
	3 MARKHAM. (Village.)					
	4 ST. JAMES' Ward, (City of Toronto.) (<i>Etc., to, say</i>)					
	26 YORK, (Township)					
503	Astor, Thomas.	3	2 From Bay.	Yeoman.	1	
504	Peel, Peter.	14	1 E. Yonge st.	Yeoman.		

These are to certify that I have carefully compared the above Grand Jurors' Roll with the Reports made by the several Selectors of Jurors for the different Townships, Villages and urban Wards in the County of York, including the City of Toronto, for the year 18 , as such Reports remained with me as Clerk of the Peace on the 25th day of October in that year, and that such Grand Jurors' Roll contains a true and correct transcript of the names, descriptions, and additions of all persons so selected and reported as competent, qualified and liable to serve as Grand Jurors in Her Majesty's Inferior Courts of Criminal Jurisdiction for such County.

Witness my hand, this day of , 18

E. F., Clerk of the Peace.

5.—THE GRAND JURY LIST.

FOR the Inferior Courts, (2) as selected in open Court at a General Sessions of the Peace for the County, on , the day of , 18 , being the first day of the first General Sessions of the Peace for the County, held next after the 10th day of November, in the said year, by C.D., Chairman of the said Court, and other Selectors, pursuant to the directions of *The Jurors' Act*

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession of Street or unincorporated Village or Hamlet as in Jurors' Roll.	Township, Village or Ward.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Astor, Thomas..	3	2 From Bay.	York.	Yeoman.	500	1	Served ac-
2	Bolland, George.	5	12	Brock.	Gentleman.	22	1	ordingly.
3	Large, George..	7	8	Albion.	Tailor.	20		Omitted to
144	(etc.. to) Waters, Edward	1	5	Brock.	Yeoman.	32	1	attend al-
								together.
								Served ac-
								ordingly.

These are to certify that on , the day of instant, being the first day of the first General Sessions of the Peace for the County of York, next after the 10th day of November in this year (5) the foregoing Grand Jury List for the Inferior Courts for this County, for the year 18 , was in open Court duly selected and canvassed from the Roll of Grand Jurors to serve in Her Majesty's Inferior Courts of Criminal Jurisdiction for the same year, pursuant to the directions of *The Jurors' Act*.

Witness our hands, this day of , 18

C. D., Chairman.
E. F., Clerk of the Peace.

6. GRAND JURY PANELS FOR THE INFERIOR COURTS. (2)

(a) No. 1.

PANEL of Grand Jurors returned upon a Precept from S. B. H. and K. L. M., Esquires, two of Her Majesty's Justices of the Peace in and for the County of York, tested the day of 18 , for the return of thirteen of such Jurors for the General Sessions of the Peace to be held for this County on , the day of , 18 , as drafted on the day of , 18 , at the office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in presence of K. L., and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of *The Jurors' Act*.

No. on Panel.	NAMES.	No. of Lot or House as in Jury List	Concession or Street or unincorporated Village or Hamlet as in Jury List.	Township, Village or Ward.	Additions.	No. on List.	Remarks.
1	Astor, Thomas..	3	2 From Bay.	York.	Yeoman.	1	
2	Bolland, George. (etc. to)	5	12	Brock.	Gentleman.	2	
24	Waters, Edward	1	5	Brock.	Yeoman.	144	

Witness our hands, the day and year last above written.

A. B., Sheriff.

K. L., J. P.

M. N., J. P.

(b) No. 2. (4) etc.

7.—ROLL OF PETIT JURORS.

To serve in Her Majesty's High Court. (2) (3).

No. on Roll.	NAMES.	No. of Lot or House as in Report of Se- lectors.	Concession or Street, or unincorporated Village or Hamlet, as in Report of Se- lectors.	Additions.	No. on List.	Remarks.
1 ALBION (Township)						
1	Parley, Peter.	16	2	Esquire.		
2	Alley, Simon.	21	7	Yeoman.	2	
3	Aikins, William	25	3	Yeoman.		
4	Ashford, Thomas.	19	5	Yeoman.	3	
5	Adams, George.	5	5	Gentleman.	1	
6	Worth, David.	11	7	Merchant.	5	
7	Barclay, John.	9	2	Shoemaker.	4	
8	Cameron, William.	4	6	Yeoman.		Exempted
9	Daniels, George.	22	11	Yeoman.	6	having
10	Small, William.	7	8	Tailor.	7	served on
	(etc., to say)					P. J. List,
1060	Yarrolld, George.	14		Baker.	288	H. C. 18
2 BROCK. (Township.) etc.						

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the several Selectors of Jurors for the different townships, villages and urban wards in the County of York, including the City of Toronto, for the year 18 , as such Reports remained with me as Clerk of the Peace on the 25th day of October of that year, and that such Petit Jurors' Roll contains a true and correct transcript of the names, descriptions and additions of all persons so selected and reported as competent, qualified and liable to serve as Petit Jurors for such county in Her Majesty's High Court of Justice.

Witness my hand, this

day

, 18

E. F., Clerk of the Peace.

8.—THE PETIT JURY LIST.

For the High Court, (2) as selected in open Court at a General Sessions of the Peace for the county, on , the day of , 18 , being the first day of the first General Sessions of the

Peace for the county, held next after the 10th day of November in the said year, by C. D., Chairman of the said Court, and E. F., the Clerk of the Peace, pursuant to the directions of *The Jurors' Act*.

No. on List.	NAMES.	No. of Lot or House, as in Jurors' Roll.	Concession or Street or unincorporated Village or Hamlet, as in Jurors' Roll.	Residence.	Additions.	No. on Roll.	No. of Panel.	Remarks.
1	Adams, George..	5	5	Albion.	Gentleman.	5		
2	Alley, Simon....	21	7	Albion.	Yeoman.	2	1	Served
3	Ashford, Thomas	2	19	Albion.	Yeoman.	4		accord-
4	Barclay, John...	19	8	Albion.	Shoemaker.	7		ingly.
5	Worth, David...	9	5	Albion.	Merchant.	6		
6	Daniel, George..	11	16	Albion.	Yeoman.	9		Attend-
	(etc. to)							ed, but
188	Yarrold, George.	14	9	Albion.	Baker.	1060	1	made default.

These are to certify that on _____, the _____ day of _____ instant, being the first day of the first General Sessions of the Peace for the County of York next after the 10th day of November in this year (5), the foregoing Petit Jury List for this county for the High Court of Justice for the year 18____, was in open Court duly selected, and canvassed from the Roll of Petit Jurors to serve in Her Majesty's High Court of Justice for the same year, pursuant to the directions of *The Jurors' Act*.

Witness our hands, this _____ day of _____, 18____.

C. D., Chairman.
E. F., Clerk of the Peace.

9.—PETIT JURY PANELS.

FOR THE HIGH COURT. (2)

(a) No. 1.

PANEL of Petit Jurors returned upon the Precept from the Honourable G. H., the Honourable J. J., etc., Justices of Her Majesty's High Court, tested the _____ day of _____, 18____, for the return of such Jurors, for theittings of the High Court of Justice (or as the precept may require) to be held for this county, on _____, the _____ day of _____, 18____, as drafted on _____ the _____ day of _____,

18 , at the office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in the presence of K. L. and M. N., Esquires Justices of the Peace for the said County, pursuant to the directions of *The Jurors' Act*.

No. on Panel.	NAMES.	No. of Lot or House, as in Jurors' List.	Concession or Street, or unincorporated Village or Hamlet, as in Jurors' List.	Township, Village or Ward.	Additions.	No. on List.	Remarks.
1	Alley, Simon..... (<i>etc. to</i>)	21	7	Albion.	Yeoman.	2	
48	Yarrolld, George ..	14	9	Albion.	Baker.	288	

Witness our hands, the day and year last above written.

A. B., Sheriff.
K. L., J. P.
M. N., J. P.

(b) No 2, (4) &c.

10—ROLL OF PETIT JURORS.

To serve in Her Majesty's Inferior Courts (2) of Criminal and Civil Jurisdiction (3).

No. on Roll.	NAMES.	No. of Lot or House, as in Report of Selectors.	Concession or Street or unincorporated Village or Hamlet as in Report of Selectors.	Additions.	No. on List.	Remarks.
1 ALBION (Township).						
1	Alford, Peter.....	16	2	Esquire.		
2	Adams, Simon.....	21	7	Yeoman.	2	
3	Addis, William.....	25	3	Yeoman.		
4	Ashton, Thomas	19	5	Yeoman.	3	
5	Aylwin, William.....	5	5	Gentleman.	1	
6	Brooks, David.....	11	7	Merchant.	5	
7	Burley, John.....	9	2	Shoemaker.	4	
8	Catty, Peter.....	4	6	Yeoman.		
9	David, George.....	22	11	Yeoman.	6	Exempted,
10	Gule, George.....	7	8	Tailor.	7	having
(<i>etc., to, say</i>),						
1060	Yarrolld, George	14	9	Baker.	288	served on P. J. List S. C., 18 .
2. BROCK (Township). <i>etc.</i>						

These are to certify that I have carefully compared the above Petit Jurors' Roll with the Reports made by the several Selectors of Jurors for

Criminal and Civil Jurisdiction for the same year, pursuant to the directions of *The Jurors' Act*.

Witness our hands, the day of 18

C. D., Chairman.

E. F. Clerk of the Peace.

12.—PETIT JURY PANELS FOR THE INFERIOR COURTS. (2)

(a) No. 1.

PANEL of Petit Jurors returned upon a Precept from S. B. H., and K. L. and M. N., Esquires, two of Her Majesty's Justices of the Peace in and for the County of York, tested the _____ day of _____, 18____, for the return of _____ of such Jurors, for the General Sessions of the Peace to be held for this County, on _____, the _____ day of _____, 18____, as drafted on _____, the _____ day of _____, 18____, at the office of the Clerk of the Peace in Toronto, by A. B., Esquire, Sheriff, in the presence of K. L. and M. N., Esquires, Justices of the Peace for the said County, pursuant to the directions of *The Jurors' Act*.

No. of Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or unincorporated Vil- lage or Hamlet, as in Jury List.	Township, Village, or Ward.	Additions.	No. on List.	Remarks.
1	Adams, Simon . . . (<i>Etc., to.</i>)	21	7	Albion.	Yeoman.	2	
48	Yarrold, George . .	14	9	Albion.	Baker.	288	

Witness our hands the day and year last above written.

A. B., Sheriff.

K. L., J. P.

M. N., J. P.

(b) No. 2.

PANEL of Special Jurors returned upon a writ of *Venire Facias Juratores*, out of the High Court of Justice, in the case of N. O., Plaintiff, against P. Q., Defendant, tested (etc.) and returnable (etc.), as struck at the office of the Clerk of the Peace, in Toronto, on _____, the _____ day of _____, 18____, by A. B., Esquire, Sheriff, in the presence of R. S., Attorney for the Plaintiff, and T. A., Agent for the Attorney of the Defendant (or in the presence of R. S., Attorney for the Plaintiff, the Defendant's

Attorney, though served with the appointment, not appearing), pursuant to the directions of *The Jurors' Act*.

No. of Panel.	NAMES.	No. of Lot or House, as in Jury List.	Concession or Street, or unincorporated Village or Hamlet, as in Jury List.	Township, Village, or Ward.	Additions.	No. on Grand Jurors' Rolls.	Remarks.
1	Abbott, William.	11	9	Albion.	Gentleman.	I.C.31	From G. J. Roll for H. C.
2	Wilkins, James ..	13	4	Brock.	Esquire.		for year 18 .
	(Etc., to.)						No. 10, the
16	Young, David ...	7	8	Albion.	Tailor.	H-C20	G. J. Roll for this year being exhausted.

Witness my hand the day and year last above written.

A. B., Sheriff.

(c) No. 3, (4) etc.

R. S. O. 1887, c. 52, Sched. B.; 55 V. c. 12, s. 3.

NOTES TO FORMS IN SCHEDULES A AND B.

(1) *This Title to be placed at the head of each page or folio throughout the Book.*

(2) *So much of this Sub-Title as ends with this word, to be placed at the head of each page or folio of the Book appropriated to this class of entries.*

(3) *This Roll to be commenced on a new page or folio after leaving a sufficient number of leaves for the Jury List to be selected from the preceding Roll and the probable number of Panels that may be drafted from such List in the course of the year.*

(4) *The subsequent Panels following immediately may be commenced on the same page or folio on which the preceding one is closed.*

(5) Or, if at a Special Sessions held under the authority of section 61 of this Act, say, "Of a Special General Sessions of the Peace for the County of York, held for that purpose under the warrant of the Lieutenant-Governor," the foregoing Grand or Petit Jury List, etc., was in open Court, etc. And note that the words "the said year" in the first part, and the words "this year" in the latter part of the form, mean the same year, the General Sessions being now held in December in each year. R. S. O. 1887, c. 52, page 671.

PAY LAST for Petit Jurors who have attended the Sitings of the High Court (or County Court and General Sessions of the Peace as the case may be), held for the County of _____, begun on the _____ day of _____, 18____, and ended on the _____ day of _____.

NAME OF JURORS.	Number of miles travelled in coming to Court.	Check of Attendance.								Amount to be paid to Juror.		Juror's signature acknowledging receipt of money.
		1st day.	2nd day.	3rd day.	4th day.	5th day.	6th day.	7th day.	8th day.	£	cts.	
John Just Charles Careless ..	21	present	present	present	present	absent	present	present	present			

I, _____, Sheriff of the County of _____, do hereby certify to the Treasurer of the said County, that the above is to the best of my knowledge, a correct return of the number of miles travelled by each Juror in coming to the said Court; a true check of the number of days every such Juror attended the Court, and the just sum to which every Juror on the above list is entitled.

A. B., Sheriff.
R. S. O. 1887, c. 52, Sched. C.

6. PROCEDURE IN CIVIL MATTERS.

CHAPTER 62.

An Act respecting Arbitration and References.

SHORT TITLE, s. 1.

INTERPRETATION, ss. 2, 18, 49.

REFERENCES BY CONSENT OUT OF COURT—

Submission irrevocable except by leave. s. 3.

What submission deemed to include, s. 4.

Official referee to act if requested, s. 5.

Staying legal proceedings after submission, s. 6.

When Court may appoint arbitrator or umpire, s. 7.

Filling vacancies, s. 8.

Power of arbitrators, s. 9.

Enlarging time for award, s. 10.

Court may remit award, s. 11.

When Court may remove arbitrator or umpire, s. 12.

Enforcing award, s. 13.

Appeal against, s. 14.

Attendance and examination of witnesses, s. 15.

Evidence to be transmitted to Toronto, s. 16.

Commission to examine witnesses, s. 17.

Fees to arbitrators, ss. 19-21.

Witness fees, s. 22.

Costs on postponement, s. 23.

Taxation of costs and revision, ss. 24, 25.

Penalty for arbitrators exacting illegal fees, s. 26.

Arbitrator may maintain action for fees, s. 27.

REFERENCES UNDER ORDER OF COURT—

When Court or Judge may refer, ss. 28, 29.

Powers and remuneration of referees, s. 30.

Effect of filing report, s. 31.

Evidence to be transmitted to Toronto, s. 32.

Appeals, ss. 33, 34.

Power of High Court, s. 35.

Power of Court of Appeal, s. 36.

REFERENCES IN COUNTY COURT ACTIONS, ss. 37-39.

GENERAL PROVISIONS—

Habeas corpus, *ad testificandum*, s. 40.

Case stated for opinion of Court, s. 41.

Discretion of Court as to costs, s. 42.

When copies of documents may be filed in lieu of originals, s. 43.

Production of Exhibits on appeals, etc., s. 44.

Time for moving to set aside award, s. 45.

How far Act applies to the Crown, s. 46.

Act to apply to all Arbitrations, except those pending when Act passed, ss. 47, 48.

Act to be read with Judicature Act and Rules of Practice, s. 49.

Rules may be made for carrying out Act, s. 50.

Instruments referring to repealed enactments, s. 51.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Arbitration Act.*" 60 V. Short title.
c. 16, s. 1.

2. In this Act, unless a contrary intention appears, Interpretation
"Submission" means a written agreement to submit present or "Submis-
future differences to arbitration, whether an arbitrator is sion."
named therein or not.

"Court" means Her Majesty's High Court of Justice. "Court."

"Judge" means Judge of Her Majesty's High Court of "Judge."
Justice.

"Rules of Court" means the Rules of the Supreme Court, "Rules of
made by the proper authority under *The Judicature Act.* Court."
60 V. c. 16, s. 2. Rev. Stat.
c. 51.

REFERENCES BY CONSENT OUT OF COURT.

3. A submission, unless a contrary intention is expressed Submission
therein shall be irrevocable, except by leave of the Court or a irrevocable
Judge, and shall have the same effect in all respects as if it had except by
been made an order of Court. 60 V. c. 16, s. 3. leave.

4. A submission, unless a contrary intention is expressed Submission to
therein, shall be deemed to include the provisions set forth in include pro-
Schedule A to this Act, so far as they are applicable to the visions in
reference under the submission. 60 V. c. 16, s. 4. schedule A.

5. Where a submission provides that the reference shall be Official referee
to an official referee, any official referee to whom application is to act when
made shall hear and determine the matters agreed to be applied to.
referred. 60 V. c. 16, s. 5.

6. If any party to a submission, or any person claiming Staying legal
through or under him, commences any legal proceedings in any proceedings
Court against any other party to the submission, or any person taken after
claiming through or under him, in respect of any matter agreed submission.
to be referred, any party to such legal proceedings may at any
time after appearance, and before delivering any pleadings or
taking any other steps in the proceedings, apply to that Court
to stay the proceedings, and that Court, or a Judge thereof, if
satisfied that there is no sufficient reason why the matter
should not be referred in accordance with the submission, and
that the applicant was, at the time when the proceedings were
commenced, and still remains, ready and willing to do all things
necessary to the proper conduct of the arbitration, may make
an order staying the proceedings. 60 V. c. 16, s. 6.

Power for the court in certain cases to appoint an arbitrator, umpire or third arbitrator.

7.—(1) In any of the following cases :—

- (a) Where a submission provides that the reference shall be to a single arbitrator, and all the parties do not, after differences have arisen, concur in the appointment of an arbitrator :
- (b) If an appointed arbitrator refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the parties do not supply the vacancy ;
- (c) Where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him ;
- (d) Where an appointed umpire or third arbitrator refuses to act, or is incapable of acting, or dies, and the submission does not show that it was intended that the vacancy should not be supplied, and the party or arbitrators do not supply the vacancy ;

any party may serve the other parties or the arbitrators, as the case may be, with a written notice to appoint an arbitrator, umpire or third arbitrator.

(2) If the appointment is not made within seven clear days after the service of the notice, the Court or a Judge may, on application by the party who gave the notice, appoint an arbitrator, umpire or third arbitrator, who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties. 60 V. c. 16, s. 7.

Power of parties in certain cases to supply vacancies.

8. Where a submission provides that the reference shall be to two arbitrators, one to be appointed by each party, then, unless the submission expresses a contrary intention :—

- (a) If either of the appointed arbitrators refuses to act, or is incapable of acting, or dies, the party who appointed him may appoint a new arbitrator in his place ;
- (b) If, on such a reference, one party fails to appoint an arbitrator, either originally or by way of substitution as aforesaid, for seven clear days after the other party, having appointed his arbitrator, has served the party making default with notice to make the appointment, the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference, and his award shall be binding on both parties as if he had been appointed by consent ;

Provided that the Court or a Judge may set aside any appointment made in pursuance of this section. 60 V. c. 16, s. 8.

9. The arbitrators or umpire acting under a submission shall, unless the submission expresses a contrary intention, have power :—

- (a) To administer oaths or to take affirmations of the parties and witnesses appearing, and
- (b) To state an award as to the whole or part thereof in the form of a special case for the opinion of the Court; and
- (c) To correct in an award any clerical mistake or error arising from any accidental slip or omission. 60 V. c. 16, s. 9.

Power of arbitrators.

10. The time for making an award may from time to time be enlarged by order of the Court or a Judge, whether the time for making the award has expired or not. 60 V. c. 16, s. 11.

Enlarging time for making award.

11.—(1) In all cases of reference to arbitration the Court or a Judge may from time to time remit the matters referred, or any of them, to the reconsideration of the arbitrators or umpire.

Power to remit award.

(2) Where an award is remitted, the arbitrators or umpire shall, unless the order otherwise directs, make their award within three months after the date of the order. 60 V. c. 16, s. 12.

12.—(1) Where an arbitrator or umpire has misconducted himself the Court may remove him.

Power to remove arbitrator.

(2) Where an arbitrator or umpire has misconducted himself, or an arbitration or award has been improperly procured, the Court may set the award aside. 60 V. c. 16, s. 13.

Or set aside award.

13. An award on a submission may, by leave of the Court or a Judge, be enforced in the same manner as a judgment or order to the same effect. 60 V. c. 16, s. 14.

Enforcing award.

14. Where it is agreed by the terms of the submission that there may be an appeal to the High Court, the reference shall be conducted and an appeal shall lie to the High Court and Court of Appeal in the same manner and subject to the same restrictions as in the case of references under order of Court. 60 V. c. 16, s. 15.

Where submission provides for appeal.

15. Any party to a submission may sue out a writ of subpoena *ad testificandum*, or a writ of subpoena *duces tecum*, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action. 60 V. c. 16, s. 10.

Subpoenaing witnesses.

16. The evidence of the witnesses examined upon such reference shall be taken down in writing and shall, at the

Evidence, how taken on reference.

request of either party, be transmitted by the arbitrator or umpire, as the case may be, together with the exhibits, to the Central office at Osgoode Hall. 60 V. c. 16, s. 16.

Commissions
to examine
witnesses.

17.—(1) In case a party to a reference by submission is desirous of having and submitting therein to and before the referee, arbitrator or umpire, the testimony of any aged or infirm person resident within Ontario, or of a person who is about to withdraw therefrom, or who is residing without the limits thereof, the High Court, or a Judge thereof, may upon the motion of the party, and upon notice to the other parties to the reference, order the issue of a commission under the seal of the said Court in that behalf, to a commissioner, to take the examination of such person.

Notice of
commission to
be given.

(2) Due notice of the execution of the commission shall be given to the adverse party, to the end that he may cause the witness to be cross-examined.

Return of
commission.

(3) In case the examination of the witness taken without the limits of Ontario, pursuant to the commission, is proved by an affidavit of the due taking of the examination, sworn before and certified by the mayor or chief magistrate of the city or place where the same has been taken, and in case the commission, with the examination and affidavit thereto annexed, is returned to the Court, enclosed in a cover under the hand and seal of one or more of the Commissioners, the same shall *prima facie* be deemed to have been duly taken, executed and returned, and shall be received as evidence in the matter of the reference by and before the referee, arbitrator or umpire, unless it is made to appear to the Court or to a Judge thereof, that the same was not duly taken, or unless it is made to appear to and before the said referee, arbitrator or umpire that the deponent is of sound mind, memory and understanding, and living within Ontario, at the time the examination is offered in evidence. 60 V. c. 16, s. 17.

Costs on References by Consent out of Court.

Intrepreta-
tion.

18. In sections 19 to 27 inclusive of this Act;

“Arbitrator.”

“Arbitrator” shall include umpire and referee in the nature of an arbitrator; and

“Award.”

“Award” shall include umpirage and certificate in the nature of an award. 60 V. c. 16, s. 18.

Fees to arbi-
trators not
being barris-
ters, archi-
tects, etc.

19. No arbitrator, who is not by profession and calling a barrister, solicitor, engineer, architect, or Ontario land surveyor, shall be entitled to demand or take for his attendance and services as an arbitrator any greater fees than are herein-after set down in Schedule B to this Act except as provided in section 21. 60 V. c. 16, s. 19.

20. No arbitrator, who is by profession and calling a barrister, solicitor, engineer, architect, or Ontario land surveyor, shall be entitled to demand or take for his attendance and services as such arbitrator any greater fees than are hereinafter set down in Schedule C to this Act except as provided in section 21. 60 V. c. 16, s. 20.

Fees to arbitrators being barristers, architects, etc.

21. The parties to the submission may agree, by writings signed by them or by making such agreement a part of the submission, to pay to the arbitrator or arbitrators, if more than one, such fees or sums for each day's attendance, or such gross sums for their taking upon themselves the burden of the reference and making the award, as the said parties see fit, and in every such case the fees and sums so agreed upon shall be substituted for those set down and authorized in the Schedules to this Act, and shall be taxed and allowed by the taxing officer accordingly. 60 V. c. 16, s. 25.

Parties to submission may agree as to fees to be paid to arbitrators

22. No greater fees shall be taxed or allowed to any person called as a witness before an arbitrator than would be taxed and allowed to the same person in an ordinary action before a Court having jurisdiction over the subject of the reference. 60 V. c. 16, s. 21.

Fees to witnesses.

23. Where, at a meeting of arbitrators, of which due notice has been given, no proceedings are taken in consequence of the absence of any party, or because a postponement is made by the arbitrators at the request of any party to some future day, the arbitrators shall make up an account of the costs of the meeting, including the proper charges for their own attendance and that of any witnesses, and of the counsel or solicitor of the party present, and not desiring the postponement, and (unless, under the special circumstances of the case, they think that it would be unjust so to do), they shall charge the amount thereof, or of the disbursements, against the party in default or at whose request the postponement is made, and the last named party shall be bound to pay the same to the other party, whatever may be the event of the reference, and the arbitrators shall, in the award, make any direction necessary for that purpose, and if such sum is payable by the party in whose favour the award is otherwise made, it may be set off against, and deducted from, any amount awarded in favour of that party. 60 V. c. 16, s. 22.

In case of absence of parties, or postponement at their request, costs of meeting to be charged against them.

24. Any party to an arbitration shall be entitled to have the costs thereof, including the fees of the arbitrators, or such fees alone, taxed by one of the taxing officers of the Supreme Court, at Toronto, upon an appointment which may be granted by the taxing officer for that purpose on the filing of an affidavit setting forth the facts. A taxation of the said fees by one of the said taxing officers may likewise be had upon an

Taxing costs on arbitrations.

appointment at the instance of the arbitrators granted upon an affidavit as aforesaid. 60 V. c. 3, s. 3; c. 16, s. 23 and s. 27 part.

Discretion of
taxing officer.

25.—(1) The taxing officer shall in no case, except as provided in section 21, tax higher fees than are set down in the Schedules to this Act, but, upon reasonable grounds established upon affidavit, he may reduce the maximum mentioned in the Schedules, but not below the minimum, having always regard to the length of the arbitration and to the value of the matter in dispute, and the difficulty of the questions to be decided; but he shall not tax more than one counsel fee to either party for any meeting of the arbitrators.

Costs of
award.

(2) The taxing officer may tax and allow a reasonable sum for the preparation and drawing up of the award.

Revision of
taxation.

(3) An appeal may be had from such taxation, in the same manner as from the taxing officer's certificate of taxation in an action. 60 V. c. 16, s. 24.

Penalty for
arbitrator
attempting to
exact exces-
sive fees.

26. An arbitrator who, after having entered upon the reference, refuses or delays after the expiration of one month from the publication of the award to deliver the same until a larger sum is paid to him for his fees than is by this Act permitted; or receives for his award or for his fees as arbitrator any such larger sum, shall forfeit and pay to the party who has demanded delivery of the award or who has paid to the arbitrator such larger sum in order to obtain, or as a consideration for having obtained it, treble the excess so demanded by and paid to the arbitrator and received by him contrary to the provisions of this Act, to be recovered with costs in an action to be brought in the High Court. 60 V. c. 16, s. 26.

Arbitrator to
have action
for fees.

27. In all cases where an award is made the arbitrator may maintain an action for his fees upon the award, after the same have been taxed; and in the absence of an express agreement in respect thereof, the arbitrator may maintain such action, after taxation, against all the parties to the reference, jointly or severally. 60 V. c. 16, s. 27, part.

REFERENCES UNDER ORDER OF COURT.

Reference for
inquiry and
report.

28. Subject to Rules of Court and to any right to have particular cases tried by a jury, the Court or a Judge may refer any question arising in any cause or matter for inquiry and report to a Judge of the County Court or to any official referee or to a special referee agreed upon by the parties. 60 V. c. 16, s. 28.

Power to refer
in certain
cases.

29. In any cause or matter,

- (a) If all the parties interested who are not under disability consent: or,
- (b) If the cause or matter requires any prolonged examination of documents or any scientific or local investigation which cannot in the opinion of the Court or a Judge conveniently be made before a jury or conducted by the Court or Judge directly; or,
- (c) If the question in dispute consists wholly or in part of matters of account,

the Court or a Judge may at any time order the whole cause or matter or any question or issue of fact arising therein or question of account to be tried either before a Judge of a County Court or before a special referee agreed on by the parties, or before an official referee. 60 V. c. 16, s. 29.

30.—(1) In all cases of reference to or trial by an official or special referee under an order of the Court or a Judge in any cause or matter, the official or special referee shall be deemed to be an officer of the Court, and shall have such authority, and shall conduct the reference in such manner, as may be prescribed by Rules of Court, and subject thereto as the Court or a Judge may direct.

Powers and remuneration of referees.

(2) The remuneration to be paid to any special referee to whom any matter is referred under order of the Court or a Judge may be determined by the Court or a Judge.

(3) The remuneration, fees, charges and disbursements payable to an official referee, and, in the absence of any special direction, to any special referee shall be the same as are payable to a Local Master.

(4) In case of a reference by the Judge at the trial of any action to a County Judge or to the Registrar or Deputy Registrar, Deputy Clerk of the Crown, Local Master or other officer of the Court, paid wholly or partly by salary, of any matter which it would be competent for such Judge to himself try at the said trial, no fees, either in stamps or otherwise, shall be charged by such referee in such reference. This subsection does not apply to references made in pursuance of the ordinary practice of the Court of Chancery before *The Ontario Judicature Act, 1881*. 60 V. c. 16, s. 30.

31. The report of an official or special referee under the three next preceding sections may be filed by any party forthwith after the same shall have been made, and upon notice of the filing thereof having been given to the other parties, it shall from the time of service of such notice have the effect of and be subject to all the incidents of a report of a Master as regards confirmation, appealing therefrom, motions thereupon and otherwise. 60 V. c. 16, s. 31.

Effect of report of referee after filing.

Evidence to be transmitted.

32. The evidence of witnesses examined upon a reference under any order of reference, together with the exhibits therein referred to, shall forthwith, after the making of the report be transmitted by the referee to the proper officer of the Court. 60 V. c. 16, s. 32. See Con. Rules 14 and 15.

Appeals from report.

33. The appeal from the report may be heard and decided by a Judge sitting in Court, and the practice to be observed upon such appeal and any further appeal to the Court of Appeal shall in other respects be the practice observed on an appeal from the report of a Master. 60 V. c. 16, s. 33.

Time for appealing.

34. An appeal from a report shall not be made after the expiration of 14 days from the filing thereof and the giving notice of such filing to the opposite party, unless under special circumstances the Court or a Judge shall allow an appeal after the 14 days. 60 V. c. 16, s. 34.

Court to have same powers as on consent references.

35. The Court or a Judge shall, as to references under order of the Court or a Judge, have all the powers which are by this Act conferred on the Court or a Judge as to references by consent out of Court. 60 V. c. 16, s. 35.

Court of Appeal to have powers of High Court.

36. The Court of Appeal shall have all the powers conferred by this Act on the Court or a Judge thereof under the provisions relating to references under order of the Court. 60 V. c. 16, s. 36.

ACTIONS IN COUNTY COURTS.

County Courts may order references as in High Court.

37. In a County Court, the Judge thereof may make an order to refer in the same manner, with the same effect and with the same powers, as may be exercised by the High Court in any cause therein. 60 V. c. 16, s. 37.

Appeals and motion to set aside awards in County Courts.

38. In a County Court in which an order of reference is made, an appeal, in like manner and within the same time as in like cases is provided with regard to actions in the High Court, shall lie to the Judge of the County Court, who shall upon such appeal have the same powers as may be exercised by a Judge in like cases in the High Court. 60 V. c. 16, s. 38.

Appeals to the High Court from decision of County Court Judge.

39. An appeal shall lie from any order, judgment, or decision of the County Court Judge to a Divisional Court of the High Court, and the proceedings and practice on the appeal, as to staying proceedings and otherwise, shall be similar to the proceedings and practice relating to appeals from County Courts to a Divisional Court. 60 V. c. 16, s. 39.

GENERAL PROVISIONS.

Issuing writs of *habeas corpus ad test.*

40. The Court or a Judge may order that a writ of *habeas corpus ad testificandum* shall issue to bring up a prisoner for

examination before a County Judge or an official or special referee, or before any arbitrator or umpire. 60 V. c. 16, s. 40.

41. Any County Judge, referee, arbitrator or umpire may at any stage of the proceedings under a reference, and shall, if so directed by the Court or a Judge, state in the form of a special case for the opinion of the Court any question of law arising in the course of the reference. 60 V. c. 16, s. 41.

Statement of case for opinion of Court.

42. Any order made under this Act may be made on such terms as to costs, or otherwise, as the authority making the order thinks just. 60 V. c. 16, s. 42.

Costs in discretion of Court.

43. The County Court Judge, Referee or Arbitrator to whom a reference is made, upon the application of any party, and where no special reason appears to him to exist for filing any original book, paper or document as an exhibit, as hereinbefore provided, may, at the close of the reference, and before the said exhibits are so filed, allow a sworn copy of such original book, paper or document which has been given in evidence before him on the reference, or of such portions thereof as he may deem material to be substituted as an exhibit in the place of the original book, paper or document. 60 V. c. 16, s. 43.

Copies of documents used as evidence may be filed in lieu of original.

44. Upon any appeal or motion to set aside an award, any party may by notice require any other party to produce, and the party so required shall produce upon the hearing of the appeal or motion any original book, paper or document in his possession which has been used as an exhibit or given in evidence upon the reference, and which has not been filed with the depositions. 60 V. c. 16, s. 44.

Production of exhibits on appeal or motion to set aside award.

45.—(1) All applications, otherwise than by way of appeal to set aside an award made on a submission, shall be made within six weeks after the publication of the award, but the Court or Judge may under special circumstances allow the application to be made after the said time.

Period within which application to set aside award must be made.

(2) In the computation of time in appealing against, or applying to set aside an award, the vacations shall not be reckoned. 60 V. c. 16, s. 45.

46. This Act shall apply to any arbitration to which Her Majesty the Queen is a party, but nothing in this Act shall empower the Court or a Judge to order any proceedings to which Her Majesty is a party, or any question or issue in any such proceedings to be tried before any County Court Judge, referee, arbitrator or officer without the consent of Her Majesty. 60 V. c. 16, s. 46.

Act to apply to the Crown.

47. This Act shall apply to every arbitration under any Act passed before or after the commencement of this Act as if

Application of Act to references under statutory powers.

the arbitration were pursuant to a submission, except in so far as this Act is inconsistent with the Act regulating the arbitration or with any rules or procedure authorized or recognized by that Act. 60 V. c. 16, s. 47.

Pending arbitrations.

48. This Act shall not affect any arbitration pending on the 1st day of September, 1897, but shall apply to any arbitration commenced thereafter, under any agreement or order made on or before the said date. 60 V. c. 16, s. 48.

Act to be read with Judicature Act and Rules.

49. This Act shall be read and construed as in *pari materia* with *The Judicature Act* and with the Consolidated General Rules of Practice, in force in this Province, applicable to the subject matter thereof. 60 V. c. 16, s. 49.

Rules of Court.

50. Rules of Court may be made from time to time by any authority to whom is committed power of making Rules under *The Judicature Act*, for the better carrying out the purpose of this Act, and regulating the practice thereunder. 60 V. c. 16, s. 50.

How instruments referring to repealed enactments to be construed.
60 V. c. 16.

51. Any enactment or instrument referring to any enactment repealed by the Act passed in the 60th year of Her Majesty's reign, entitled *An Act for Amending and Consolidating the enactments respecting References and Arbitration*, shall be construed as referring to this Act. 60 V. c. 16, s. 51 (2).

SCHEDULE A.

(Section 4.)

PROVISIONS TO BE IMPLIED IN SUBMISSIONS.

(a) If no other mode of reference is provided, the reference shall be to a single arbitrator.

(b) If the reference is to two arbitrators, the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

(c) The arbitrators shall make their award in writing within three months after entering on the reference, or after having been called on to act by notice in writing from any party to the submission, or on or before any later day to which the arbitrators, by any writing signed by them, may from time to time enlarge the time for making the award.

(d) If the arbitrators have allowed their time or extended time to expire without making an award, or have delivered to any party to the submission, or to the umpire, a notice in writing, stating that they cannot agree, the umpire may forthwith enter on the reference in lieu of the arbitrators.

(e) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired, or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

(f) The parties to the reference, and all persons claiming through them respectively, shall subject to any legal objection, submit to be examined by the arbitrators or umpire, on oath or affirmation, in relation to the

matters in dispute, and shall subject as aforesaid, produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for, and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

(g) The witnesses on the reference shall, if the arbitrators or umpire think fit, be examined on oath or affirmation.

(h) The award to be made by the arbitrators or umpire shall be final and binding on all the parties and the persons claiming under them respectively.

(i) The costs of the reference and award shall be in the discretion of the arbitrators or umpire, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and may award costs to be paid as between solicitor and client.

60 V. c. 16, Sched. A.

SCHEDULE B.

(Section 19.)

FEES CHARGEABLE BY NON-PROFESSIONAL ARBITRATORS.

For every meeting where the cause is not proceeded with, but an enlargement or postponement is made at the request of any party, not less than	\$2 00
Nor more than	4 00
For every day's sitting, to consist of not less than six hours, not less than	5 00
Nor more than	10 00
For every sitting not extending to six hours (fractional parts of hours being excluded) where the arbitration is actually proceeded with, for each hour occupied in such proceedings, at the rate of not less than	1 00
Nor more than	1 50

60 V. c. 16, Sched. B.

SCHEDULE C.

(Section 20.)

FEES CHARGEABLE BY PROFESSIONAL ARBITRATORS.

For every meeting where the cause is not proceeded with, but an enlargement or postponement is made at the request of any party, not less than	\$4 00
Nor more than	8 00
For every day's sitting, to consist of not less than six hours, not less than	10 00
Nor more than	20 00
For every sitting not extending to six hours (fractional parts of hours being excluded) where the arbitration is actually proceeded with, for each hour occupied in such proceedings, at the rate of not less than	2 00
Nor more than	3 00

60 V. c. 16, Sched C.

CHAPTER 63.

An Act enabling Boards of Trade in Cities to appoint General Arbitrators for certain purposes.

TITLE, s. 1.	ARBITRATORS TO BE SWORN, ss. 11, 12.
CHAMBER OF ARBITRATION, s. 2.	WITNESSES, ss. 13-15.
NOMINATION OF ARBITRATORS, s. 3.	PROCEEDINGS AT ARBITRATION, ss. 16-24.
DISQUALIFICATION OF, s. 4.	SETTING ASIDE AWARD, ss. 25, 26.
ACCOMMODATION FOR, s. 5.	PRACTICE IN UNPROVIDED CASES, s. 27.
REGISTRAR OF ARBITRATORS, s. 6.	
NUMBER OF ARBITRATORS, s. 7.	
EFFECT OF SUBMISSION, ss. 8-10.	
ENFORCEMENT OF AWARD, s. 10.	

Preamble.

WHEREAS the Board of Trade of the City of Toronto has been enabled to procure the settlement of differences between the members of their corporation by arbitration with unusual economy and despatch; and whereas the said Board of Trade has resolved that in the opinion of the Board the success attendant on their system of arbitration justifies its extension to persons or corporations other than members of the Board; and whereas it is desirable to give effect to the experience of the said Board and to extend such system aforesaid and its advantages to other cities where Boards of Trade have been established, in case such Boards desire to avail themselves of this Act;

Therefore Her Majesty, by and with the advice and consent, of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Boards of Trade General Arbitration Act.*" 57 V. c. 24, s. 1.

Chamber of arbitration.

2. It shall be the duty of the Council of the Board of Trade of the City of Toronto, hereinafter called "the Board," from time to time to determine the number of persons which, in the opinion of the Council, shall be sufficient to form a Chamber of Arbitration, from among whom Boards of Arbitration may be selected to hear and decide controversies, disputes or misunderstandings which may be voluntarily submitted to them for arbitration. 57 V. c. 24, s. 2.

Nomination of persons to act as arbitrators.

3.—(1) The council shall nominate from the community generally not less than thirty persons who shall have given

their consent in writing to act as Arbitrators; out of which number there shall be elected by ballot by the members of the Board of Trade at a special meeting called for that purpose the number so determined upon by the Council as sufficient to form a Chamber of Arbitration.

(2) Any of the persons so elected may be members of the Qualification Board of Trade, but such membership shall not be a necessary qualification of the persons elected.

(3) Immediately after the election a list of the persons elected shall be published in *The Ontario Gazette* and such other papers as the Council of the Board may determine. Persons elected to be gazetted.

(4) The appointment shall be for two years from the date of the election, provided nevertheless that if at the expiration of two years any arbitration shall be pending before any Arbitrator, his appointment so far as such unfinished business is concerned shall not be affected until such business is determined. Term of office of arbitrators.

(5) The names of such Boards of Arbitrators shall be continuously posted in the offices of the Board of Trade in the Board of Trade building. 57 V. c. 24, s. 3 (1-5). Names of arbitrators to be kept posted up.

4. If any person appointed as aforesaid to act as an Arbitrator be convicted of any indictable offence, his appointment to act as such Arbitrator shall forthwith be vacated, and if such person at such time is engaged in an arbitration, the other two Arbitrators shall have all the powers of the three to continue such arbitration and make an award. 57 V. c. 24, s. 3 (6). Disqualification of arbitrators.

5. The Board of Trade is to provide parties who submit to arbitration under this Act with arbitration rooms and all necessary forms and papers, and is to do or cause to be done all such acts as they lawfully may do for the purpose of assisting the parties to the arbitration in the course of the arbitration. 57 V. c. 24, s. 4. Rooms to be provided.

6. The Secretary of the Board shall be *ex-officio* Registrar of all arbitrations under this Act, unless the Board make a separate appointment; and the duties of the Registrar shall (in addition to any duties which the Council of the Board may by rules in writing prescribe) be as follows:—He shall receive submissions and payment of fees and costs; shall notify the Arbitrators and umpire of their appointment; give notice of hearing to parties; issue summonses for attendance of witnesses and production of documents; keep a register of submissions, a register of awards and reconciliations, and such other books and memoranda, and make such returns as the Council of the Board of Trade shall from time to time require. He shall render such assistance to the Arbitrator or Arbitrators in the arbitration as he or they may require, and generally shall carry out the instructions of the Board. 57 V. c. 24, s. 5. Registrar and his duties

Number of arbitrators at arbitrations.

7. All arbitrations under this Act shall be held before one Arbitrator or two or three Arbitrators, according to the desire and agreement of the parties. 57 V. c. 24, s. 6.

Submission not revocable.

8. Parties assenting to an arbitration by an instrument in writing duly executed by them according to the form in Schedule A to this Act, or to that effect, and filing the same with the Registrar shall not be entitled to revoke the submission. 57 V. c. 24, s. 7.

Submission not revoked by death of parties.

9. Unless the contrary is agreed on, a submission to arbitration under this Act shall not be revoked or affected by the death of any party thereto, but the matters in difference may be determined in the same manner as if the award had been made in his lifetime, subject to any rules of evidence relating to claims against the estates of deceased persons; and the executor or administrator of the deceased shall be deemed to be a party to the submission. 57 V. c. 24, s. 10.

Effect of submission and enforcement of award.

10. A submission under this Act shall, unless a contrary intention is expressed therein, have the same effect in all respects as if it had been made an order of Court, and the award thereunder may be enforced in the same manner as an award on a submission may be enforced under *The Arbitration Act*. 60 V. c. 16, s. 52.

Arbitrators to be sworn.

11. The Arbitrators shall after their appointment and before acting in any case as Arbitrators, take and subscribe an oath before a Justice of the Peace, or a commissioner for taking affidavits in the High Court of Justice, that they will faithfully, diligently and impartially perform their duties as Arbitrators, and will in all cases to be submitted, give a true and just award according to the best of their judgment and ability without fear, favour or affection of or for any person whomsoever. 57 V. c. 24, s. 8.

Oaths.

12. Arbitrators nominated by the parties under this Act shall in each case before they act, take and subscribe a similar oath; which may be in the form of Schedule B to this Act, and such oath shall be filed with the Registrar. 57 V. c. 24, s. 9.

Compelling attendance of witnesses.

13. The Registrar, on the application of any party by himself or his agent, may issue a summons for service by such party, commanding the attendance for examination of any witness, and also the production of any document, to and before the Arbitrator or Arbitrators, and at the time and place mentioned in the summons; and the disobedience of such summons by any witness shall render such witness liable to the same extent and in the same manner as the disobedience of a subpoena issued out of the High Court of Justice duly served, with an appointment of an Arbitrator before whom the attend-

ance is required under similar circumstances as now provided by law. Such summons may be in the form or to the effect of Schedule D to this Act. 57 V. c. 24, s. 13.

14. A commission out of the High Court to take the testimony of any person without the Province, or of an aged or infirm person resident within the Province, or of a person who is about to withdraw therefrom, may, by leave of the Arbitrator or Arbitrators, be issued in the same manner and with the same effect as in an action. 57 V. c. 24, s. 25.

Commission to take evidence.

15. Persons giving evidence before the Arbitrator or Arbitrators shall be examined on oath or affirmation, (Schedule C.) which may be administered by the Arbitrators, or one of the Arbitrators, or by the Registrar. All parties shall produce before the Arbitrator or Arbitrators all documents within their possession or control which the Arbitrator or Arbitrators may require or call for. 57 V. c. 24, s. 15.

Witnesses to be examined on oath.

Production of documents by parties.

16. The Arbitrator or Arbitrators shall be at liberty to proceed in the absence of any party who, after reasonable notice, neglects or refuses to attend on the reference without having previously shewn to the Arbitrator or Arbitrators what such Arbitrator or Arbitrators shall consider good and sufficient cause for omitting to attend. 57 V. c. 24, s. 14.

When arbitrators may proceed *ex parte*.

17. The Arbitrator or Arbitrators shall make his or their award within twenty-one days after the signing of the submission, or on or before any later day to which he or they may in writing signed by him or them from time to time enlarge the time for making the award. 57 V. c. 24, s. 16.

Power to enlarge time for award.

18. The Arbitrator or Arbitrators shall make and publish his or their award in writing, signed by the Arbitrator or Arbitrators making the same, and shall deposit the same with the Registrar; and every party to the reference may have a copy thereof upon payment of ten cents per folio of one hundred words, and upon payment of the fees hereinafter provided for, unless previously paid. 57 V. c. 24, s. 17.

Award to be in writing.

19. The hearing of every case shall, so far as circumstances permit, and subject to such adjournments as the Arbitrator or Arbitrators shall think necessary or just, be continued *de die in diem*. 57 V. c. 24, s. 18.

Arbitrations to continue *de die in diem*.

20. If any party desires to be represented by a barrister, solicitor or agent, he shall, before the hearing, give two day's notice thereof to the Registrar, and the Registrar shall forthwith communicate the information to the other party, who thereafter shall have the privilege of being represented by a barrister, solicitor or agent without any notice. 57 V. c. 24, s. 19.

Barristers and solicitors.

Authority of
agents.

21. Every person other than a barrister or solicitor appearing as the representative of any party shall file with the Registrar a letter signed by such party authorizing such person to appear for him; otherwise such person shall not, without the consent of the other party or parties, be allowed to take any part in the proceedings. 57 V. c. 24, s. 20.

Special case.

22. The attendance of parties may be dispensed with if they prefer jointly to state a case, filed with the Registrar, and agree to accept the decision of the Arbitrator or Arbitrators on such case. The award shall then be made on such stated case. 57 V. c. 24, s. 21.

Sittings not to
be public.

23. The sittings of the Arbitrators shall not be considered public, and no person shall be admitted thereto during the hearing of a case except the parties, and their legal advisers or authorized agents and witnesses; Provided always that any other persons may be present by permission of the Arbitrators, unless objected to by any of the parties. Such permission shall not be granted to reporters of the public press without the special request of all parties interested in the case. 57 V. c. 24, s. 22.

Notice of
hearing.

24. At least five clear days' notice of the time fixed for the hearing of any case shall be given by the Registrar to all parties to the submission, unless all parties otherwise agree. 57 V. c. 24, s. 27.

Award may
only be set
aside for
fraud.

25. The award may be set aside for fraud, but not for any other cause. Unless it is so set aside, the award shall be binding and conclusive upon the parties thereto, and be a final settlement of the matter in difference. 57 V. c. 24, s. 23.

Time for
motion to set
aside.

26. Any motion to set aside the award for fraud must be made within one month after the discovery of such fraud. 57 V. c. 24, s. 24.

Practice in
unprovided
cases.

27. In any case not provided for by this Act the law and practice relating to submissions to arbitration shall be applicable. 57 V. c. 24, s. 26.

Costs in
discretion of
arbitrator.

28.—(1) The costs of the reference and award shall be in the discretion of the Arbitrator or Arbitrators, who shall have power to direct to and by whom and in what manner and within what time the same shall be paid. No fees or costs shall be payable except witness fees, Arbitrators' fees, Registrar's fees and office fees.

Witness fees.

(2) A witness shall be entitled to the same fees as in an action in the High Court of Justice. 57 V. c. 24, s. 28.

Arbitrators'
fees.

29. The fees for arbitration under this Act shall be as follows: For each Arbitrator who shall be present at the hear-

ing of the case, a fee of not more than \$5 for each sitting; office fee, including Registrar's assistance, forms, room, etc., \$5 for the first sitting, and \$3 for each sitting thereafter, the Arbitrator or Arbitrators to apportion so much of this as he or they may see fit to the Registrar for his attendance. The above scale shall apply unless the parties enter into an agreement in writing to pay specified fees of a larger amount. 57 V. c. 24, s. 29.

30. The award of the majority of Arbitrators shall be as binding and conclusive as the award of all without any provision to that effect in the agreement; and any act which is directed by this Act to be done by a Board of Arbitrators shall be valid if done by any two of them; and in case of the appointment of three Arbitrators the neglect or refusal of any Arbitrator to act shall not invalidate the proceedings, but all proceedings may be taken by the majority of the Arbitrators appointed. 57 V. c. 24, s. 30.

Award of majority to be binding.

31. In case both parties to the submission refuse or neglect to take up the award within three days after notice has been sent by the Registrar to the said parties by mail at their last known place of business or residence, then the Registrar shall be entitled to obtain an order from the Arbitrators or a majority of them for the payment of the fees hereinbefore provided for: and upon such order being produced to the Clerk of the County Court of the County he shall file the same, and shall issue execution in the name of the Registrar against the goods and lands of the party or parties named therein as upon a judgment in such Court, for the amount of such fees, and the costs proper to be taxed in the discretion of such Clerk for the order and execution; and such execution shall have the same force and effect as an execution in any case in the said Court. 57 V. c. 24, s. 31.

Recovery of fees where award not taken up.

32. The Council of the Board of Trade may make rules and regulations for the efficient carrying out of the objects of this Act and the awards made thereunder, provided that the same are not inconsistent with the provisions of this Act. 57 V. c. 24, s. 32.

Council of Board of Trade may make rules.

33. This Act is not intended in any way to interfere with or qualify the provisions of the Acts relating to the Board of Trade of the City of Toronto, or to arbitrations between the members thereof, or to the by-laws and rules framed under such Acts. 57 V. c. 24, s. 33.

Act not to affect arbitrations between members of the board.

34. (1) Upon the application of a Board of Trade duly formed either in pursuance of the Revised Statutes of Canada, chapter 130, respecting the incorporation of Boards of Trade, or otherwise, in any city of this Province having at least 30,000 inhabitants according to the last preceding Dominion or municipal census,

Formation of boards of arbitration in other cities.

SCHEDULE C.

(Section 15.)

Form of Oath for Witnesses.

You solemnly swear that you will true answer make to all such questions as shall be asked of you as a witness under examination in this case between _____ and _____ and therein you will to the best of your knowledge, information and belief, speak the truth, the whole truth and nothing but the truth. So help you God.

57 V. c. 24, Schedule C.

SCHEDULE D.

(Section 13.)

SUMMONS TO WITNESS.

In the Matter of an Arbitration between *A. B.* and *C. D.*, under the Boards of Trade General Arbitrations Act.

TO *E. F.*

Whereas an arbitration between the above parties is now pending ; and whereas one of the parties thereto desires that you should attend before the arbitrator (or arbitrators) to give evidence, and has (or have) authorized and required me as registrar to issue this summons for your attendance, I do hereby in the exercise of the powers in this behalf given by the said Act, summon and require you to attend at on the day of at the hour of in the noon of the said day at before the said arbitrator (or arbitrators) there to be examined and give evidence on behalf of and also to bring with you and produce at the time and place aforesaid (*specify documents to be produced*).

In default of your attending at the time and place aforesaid you are liable to be proceeded against under the provisions of *The Boards of Trade General Arbitrations Act*.

In Witness Whereof I have hereto set my hand this
day of _____.

57 V. c. 24, Schedule D.

CHAPTER 64.

An Act respecting Disputes concerning Boundary Lines.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

Application of Act.

1. This Act shall not apply to lands situated in any city, town or incorporated village. 59 V. c. 21, s. 1.

Questions arising in any action, as to boundary line to be referred to surveyor.

2.—(1) Where in any action or other proceeding commenced on or after the 7th day of April, 1896, it appears to a Judge that a material question to be judicially determined between the parties is the true definition of a boundary line between adjoining lands, such question may be referred for trial to a special referee who shall be an Ontario Land Surveyor.

(2) The Surveyor shall, by a proper survey as directed by chapter 181 of these Statutes, and upon hearing, where he deems it necessary, the evidence under oath adduced by the parties and their counsel, if any, define upon the ground by such posts and monuments as he deems sufficient, the true boundary or division line so in dispute.

(3) The Surveyor shall make a report to the Court and shall therein set forth his mode of procedure and what he has done in the premises, and also such further or other facts and circumstances as may be necessary to enable the Court to finally determine the said question and how the costs should be borne. 59 V. c. 21, s. 2.

Application for reference.

3. An application for a reference may be made by any party to the litigation at any time after the commencement of the action or other proceeding upon an affidavit of any person familiar with the facts, and such application shall be an ordinary chamber application and subject to all the rules of practice applicable to such applications. 59 V. c. 21, s. 3.

Reference to be subject to Rev. Stat. c. 62.

4. The said reference shall be regarded as a reference under section 28 of *The Arbitration Act*. 59 V. c. 21, s. 4.

Agreement as to surveyor to whom reference shall be made.

5. The parties to the litigation may agree upon the Ontario Land Surveyor to be named as special referee as aforesaid, but if they fail to agree he shall be named and appointed by the Judge before whom the application is made. 59 V. c. 21, s. 5.

6. If upon the application it shall appear that from the nature of the other issues to be determined in the said litigation between the parties, or for other good cause, it would be a saving of expense, or otherwise to the advantage of both parties not to direct a reference, the reference may be dispensed with and the question in issue shall be tried as heretofore. 59 V. c. 21, s. 6.

When reference may be dispensed with.

7. In case all parties to the dispute concerning a boundary line consent, a summary application may be made to the Judge of the County Court of the County in which the lands are situated to name a special referee under this Act without any prior proceedings having been commenced or being then pending, and in such case the referee shall proceed as hereinbefore directed, and his report concerning the premises shall have the force and effect of a final award between the parties concerning the said disputed boundary line, and may be registered by either party thereto in the proper registry office against the lands affected thereby. 59 V. c. 21, s. 8.

Reference of disputed boundary lines by consent of parties.

8. In case the parties to the litigation or dispute fail to agree upon the Ontario Land Surveyor to be named as special referee under the provisions of this Act, the Judge to whom application is made for the reference shall not name or appoint an Ontario Land Surveyor who has theretofore been concerned in the survey of the lands in question or any part thereof or who has been otherwise engaged in directing a survey which affects or might affect such lands, or which involves the determination of a like question to that in dispute, nor shall the Ontario Land Surveyor appointed in such case be or have been at any time within ten years prior thereto a resident of the county in which the lands the boundary line whereof is in question are situate. 59 V. c. 21, s. 9.

Where parties fail to agree.

9. This Act shall be read and construed as *in pari materia* with *The Judicature Act*, and with the General Rules of Practice and Procedure of the Supreme Court of Judicature in force in this Province applicable to the subject matter hereof. 59 V. c. 21, s. 7.

Act to be construed with Rev. Stat. c. 51.

CHAPTER 65.

An Act respecting Lunatics.

INTERPRETATION, s. 1.

JURISDICTION, s. 2.

INQUISITION BY COMMISSION, ss. 3, 4.

INQUIRY WITHOUT COMMISSION, ss.
5-8.

SCOPE OF INQUIRY, s. 9.

PROTECTION OF PROPERTY, ss. 10-16.

APPEAL, s. 17.

COSTS, s. 18.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpretation
"lunatic."

1. The word "lunatic" in this Act shall include an idiot or other person of unsound mind. R. S. O. 1887, c. 54, s. 1.

Jurisdiction
over lunatics
and their
estates.

2. In the case of lunatics and their property and estates the jurisdiction of the High Court shall include that which in England is conferred upon the Lord Chancellor by a Commission from the Crown, under the Sign Manual. R. S. O. 1887, c. 54, s. 2.

INQUISITION BY COMMISSION.

Traverse of in-
quisition of
lunacy.

3.—(1) Where a Commission has been issued and an inquisition thereupon returned into Court, by which a person is found lunatic, in case any one entitled to traverse the inquisition desires to do so, he may, within three months from the day of the return and filing of the inquisition, present a petition for that purpose to the Court, and the Court shall hear and determine the petition subject to the following provisions:

Time to be
limited.

(2) In every order giving effect to the petition, the Court shall limit a time not exceeding six months from the date of the order, within which the person desiring to traverse, and all other proper parties, shall proceed to the trial of the traverse; but the Court may under the special circumstances of any case, verified by affidavit, and upon a petition being presented for that purpose, allow the traverse to be had or tried after the time limited; and in such special case the Court may make such orders as seem just.

May be tried
in any Court of
Record.

(3) The trial may be ordered to take place in any Court of Record in Ontario, with the aid of a jury, according to the circumstances of the case and the situation of the parties.

(4) The Court may order that the person to traverse, if he is not the party who has been found lunatic, shall, within one month after the date of the order, file, with such officer as the Court may appoint, a bond, with one or more sureties, in favour of the Accountant, or other officer appointed by the Court, and conditioned for all proper parties proceeding to the trial of the traverse within the time limited. The bond before the filing thereof shall be approved of and certified to be sufficient by the Judge of the County Court of the County in which the parties reside, or by one of the Masters of the Supreme Court of Judicature.

What security the traverser shall give.

(5) Every person who does not present his petition, or who neglects to give the security, or who does not proceed to the trial of the traverse within the times respectively limited therefor, and the heirs, executors and administrators of every such person, and all others claiming through him, shall be absolutely barred of the right of traverse. R. S. O. 1887, c. 54, s. 3.

When the traverser barred.

4. The Court if dissatisfied with the verdict returned upon a traverse, may order a new trial, or new trials, as in other cases. R. S. O. 1887, c. 54, s. 4.

New trials may be granted.

INQUIRY WITHOUT COMMISSION.

5. Instead of issuing a Commission of Lunacy the High Court may, with or without the aid of a jury (which the Court or a Judge thereof may cause to be empanelled as in other cases) hear evidence and inquire into and determine upon the alleged lunacy, or may send the inquiry to any Court of Record: but the alleged lunatic shall have a right in such cases to demand that the inquiry be submitted to a jury. R. S. O. 1887, c. 54, s. 5.

Inquiry as to lunacy.

Alleged lunatic may require a jury.

6. Where such inquiry is had, no traverse shall be allowed, but the Court, if dissatisfied with the finding of a jury, may, at the instance of any party who would be entitled to traverse an inquisition under commission of lunacy, direct a new trial or new trials from time to time upon application therefor made to the Court within three months from the time the verdict is rendered, or such further time as the Court, under special circumstances, permits, and subject to such directions and upon such conditions as to the Court seem proper, and the Court may order such new trial to be had before the same Court in which the verdict was rendered or before any other Court. R. S. O. 1887, c. 54, s. 6.

No traverse allowed but new trial may be granted by Court.

7. On every such inquiry the alleged lunatic, if he is within the jurisdiction of the Court, shall be produced, and shall be examined at such times and in such manner either in open Court or privately before the jury retire to consult about their verdict as the presiding Judge may direct, unless the Court

Alleged lunatic may be examined openly or privately as Judge directs.

ordering the inquiry has, beforehand, by order, dispensed with the examination. R. S. O. 1887, c. 54, s. 7.

Declaration of lunacy without commission.

8. The High Court or a Judge thereof may, on sufficient evidence, declare a person a lunatic without the delay or expense of issuing a commission to inquire into the alleged lunacy, except in cases of reasonable doubt; and any person who might traverse an inquisition to the same effect may move against the order containing the declaration, or may appeal therefrom, as the case requires; and the right so to move or appeal shall, as to time, be subject to the same rules as the right to traverse. R. S. O. 1887, c. 54, s. 8.

Proceedings in lieu of traverse when no commission issued.

SCOPE OF INQUIRY.

Question to be tried.

9. Every inquiry, under a Commission of Lunacy, or before any Court of Record, shall be confined to the question, whether or not the person who is the subject of inquiry is, at the time of the inquiry, of unsound mind and incapable of managing himself or his affairs, and the verdict rendered by a jury shall, in every case, be returned to the Court, certified by the Judge before whom the inquiry has been had, and shall be final as to the question on the inquiry, unless the same is set aside. R. S. O. 1887, c. 54, s. 9.

PROTECTION OF PROPERTY.

Property of Lunatics.

10. In order to afford due protection to the property of lunatics, the following provisions shall in every case be observed:

The committee to file an inventory of present property.

1. The committee of the estate shall, within six months after being appointed, file in the office of the Master to whom the matter is referred, or of such officer as may be appointed for that purpose, a true inventory of the whole real and personal estate of the lunatic, stating the income and profits thereof, and setting forth the debts, credits and effects of the lunatic, so far as the same have come to the knowledge of the committee;

Also, of after discovered property.

2. If any property belonging to the estate is discovered after the filing of an inventory, the committee shall file a true account of the same from time to time, as the same is discovered;

To be verified on oath.

3. Every inventory shall be verified by the oath of the committee; and

Security to be given by the committee.

4. The committee of the estate shall give two or more responsible persons as sureties, in double the amount of the personal estate, and of the annual rents and profits of the real estate, for duly accounting for the same once in every year, or

oftener if required by the Court, and for filing the inventory aforesaid; and the security shall be taken by bond in the name of the Accountant or other officer appointed by the Court for that purpose, and the same shall be filed in the office of the Accountant or other officer so appointed. R. S. O. 1887, c. 54, s. 10.

11. Where the personal estate of a lunatic is not sufficient for the discharge of his debts, the following steps may be taken: When estate not sufficient to pay debts.

1. The committee of his estate may petition for authority to mortgage, lease or sell so much of the real estate as may be necessary for the payment of the debts; Committee to apply for leave to mortgage or sell.
2. The petition shall set forth the particulars and amount of the estate, real and personal, of the lunatic, the application made of any personal estate, and an account of the debts and demands against the estate; What the petition is to contain.
3. The Court shall, by one of the Masters of the Supreme Court of Judicature, or otherwise, inquire into the truth of the representations made in the petition, and hear all parties interested in the real estate; Truth of petition to be inquired into.
4. If it appears to the Court that the personal estate is not sufficient for the payment of debts, and that the same has been applied to that purpose as far as the circumstances of the case render proper, the Court may order the real estate or a sufficient portion of it to be mortgaged, leased or sold either by the committee or otherwise; If personal estate insufficient, real estate may be disposed of.
5. The Court shall direct the committee to discharge the debts out of the money so raised, and the Court may order the committee to execute conveyances of the estate, and to give security for the due application of the money, and to do such other acts as may be necessary in such manner as the Court may direct; and Debts to be paid out of the proceeds.
6. In the application of moneys so raised, the debts shall be paid in equal proportion without giving preference to those secured by sealed instruments. Ratably and without preference.

12. Where the personal estate, and the rents, profits and income of the real estate of the lunatic are insufficient for his maintenance or that of his family, or for the education of his children, an application may be made by the committee, or by a member of the family of the lunatic, that the committee be authorized or directed to mortgage or sell the whole or part of the real estate as may be necessary; upon which the like If effects not sufficient to maintain the lunatic, his real estate may be applied.

reference and proceedings shall be had, and a like order made, as for the payment of debts. R. S. O. 1887, c. 54, s. 12.

Surplus sums
how to be ap-
plied or dis-
posed of.

13. In case of a mortgage, lease or sale being made, the lunatic and his heirs, next of kin, devisees, legatees, executors, administrators and assigns shall have the like interest in the surplus which remains of the money raised as he or they would have in the estate, if no mortgage, lease or sale had been made; and the money shall be of the same nature and character as the estate mortgaged, leased or sold; and the Court may make such orders as are necessary for the due application of the surplus. R. S. O. 1887, c. 54, s. 13.

Where a
lunatic is
trustee or
mortgagee his
committee
may act, and
how far.

14. Where a lunatic is seised or possessed of real estate, by way of mortgage, or as a trustee for others in any manner, the committee may apply to the Court for authority to convey such real estate to the person entitled thereto, in such manner as the Court may direct; and thereupon the like proceedings shall be had as in the case of an application to sell the real estate; and the Court, upon hearing all the parties interested, may order a conveyance to be made; and on the application of any person entitled to a conveyance, the committee may be compelled by the Court, after hearing all parties interested, to execute the conveyance. R. S. O. 1887, c. 54, s. 14.

Instruments
executed by
the committee
to be valid.

15. Every conveyance, mortgage, lease and assurance made by the committee under direction of the Court, pursuant to any of the provisions of this Act, shall be as valid as if executed by the lunatic when of sound mind. R. S. O. 1887, c. 54, s. 15.

Specific per-
formance of
contracts
made by
lunatic when
sane.

16. The Court may compel the specific performance of any contract made by a lunatic while capable of contracting, and may direct the committee to execute all necessary conveyances for the purpose; and the purchase money, or so much thereof as remains unpaid, shall be paid to the committee or otherwise as the Court directs. R. S. O. 1887, c. 54, s. 16.

APPEAL.

Appeal.

17. An order made by a Judge in a matter of lunacy shall be subject to appeal to a Divisional Court and to the Court of Appeal within the same times and under the same conditions as in other cases in the High Court. R. S. O. 1887, c. 54, s. 17.

COSTS.

By whom the
Court may
order costs
to be paid.

18. The Court may order the costs, charges and expenses of and incidental to a petition for a commission of lunacy or to any inquiry, inquisition, issue, traverse, order, direction, conveyance or other proceeding in lunacy, to be paid by the party or parties presenting the petition or prosecuting the same or such inquiry or other proceeding in lunacy, or by the party or parties opposing the same, or out of the estate of the lunatic, or alleged lunatic, or partly in one way and partly in another. R. S. O. 1887, c. 54, s. 18.

CHAPTER 66.

An Act respecting Actions of Replevin.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Replevin Act.*" R. S. O. Short title. 1887, c. 55, s. 1.

WHEN GOODS REPLEVIABLE.

2. Where goods, chattels, deeds, bonds, debentures, promissory notes, bills of exchange, books of account, papers, writings, valuable securities or other personal property or effects have been wrongfully distrained under circumstances in which by the law of England, on the 5th day of December, 1859, replevin might have been made, the person complaining of such distress as unlawful may bring an action of replevin, or where such goods, chattels, property or effects have been otherwise wrongfully taken or detained, the owner or other person capable of maintaining an action for damages therefor may bring an action of replevin for the recovery of the goods, chattels, property or effects, and for the recovery of the damages sustained by reason of the unlawful caption and detention, or of the unlawful detention, in like manner as actions are brought and maintained by persons complaining of unlawful distresses. R. S. O. 1887, c. 55, s. 2.

When goods may be replevied.

3. No party to an action or proceeding, in any Court, shall replevy or take out of the custody of the Sheriff, Bailiff, or other officer, any personal property seized by him under process against such party. R. S. O. 1887, c. 55, s. 3.

Goods seized not to be replevied by parties.

4. Where a Sheriff has in his hands an order of replevin, and in case the property to be replevied or any part thereof is reasonably supposed to be secured or concealed in any dwelling house of the defendant, or of any other person holding the same for him, and in case the Sheriff publicly demands at the door of such dwelling house delivery of the property to be replevied, and in case the same is not delivered to him within six hours after such demand, he may, and shall, if necessary (but during daylight only), break open such dwelling house for the purpose of replevying such property or any part thereof, if found therein, and shall make replevin according to the order. 56 V. c. 5, s. 15 (1).

Power of sheriff to make search under order of replevin in dwelling house of defendant or others holding for him.

When concealed in other enclosure.

5. When the property to be replevied, or any part thereof, is reasonably supposed to be secured or concealed in any enclosure other than a dwelling house of the defendant, or of any other person holding the same for him, and in case the Sheriff publicly demands at the enclosure, delivery of the property to be replevied, and in case the same is not forthwith delivered to him, he may, and shall, if necessary, at once break open such enclosure for the purpose of replevying such property, if found therein, and shall make replevin according to the order. 56 V. c. 5, s. 15 (2).

When concealed on person, etc.

6. If the property to be replevied, or any part thereof, is reasonably supposed to be concealed either about the person or on the premises of the defendant, or of any other person holding the same for him, and in case the sheriff demands from the defendant, or such other person, delivery thereof, and delivery is neglected or refused, he may, and if necessary, shall, search and examine the person, and (subject to the preceding clauses) the premises of the defendant or other person, for the purpose of replevying the property, or any part thereof, and shall make replevin according to the order. 59 V. c. 18, Sched. (44).

REPLEVIN IN COUNTY COURTS.

In cases under \$200 action may be brought in County Court.

7. In case the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$200, and in case the title to land is not brought in question, the action may be brought in the County Court of any County wherein the goods or other property or effects have been distrained, taken or detained. R. S. O. 1887, c. 55, s. 4.

REPLEVIN IN DIVISION COURTS.

In cases under \$60, action may be brought in Division Court.

8.—(1) In case the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$60, and in case the title to land is not brought in question, the action may be brought in the Division Court for the division within which the defendant or one of the defendants resides or carries on business, or where the goods or other property or effects have been distrained, taken or detained.

Procedure in Division Court.

(2) The matter shall then be disposed of without formal pleadings, and the powers of the Court and officers, and the proceedings generally shall be, as nearly as may be, the same as in other cases which are within the jurisdiction of Division Courts. R. S. O. 1887, c. 55, s. 5.

CHAPTER 67.

An Act respecting Actions of Dower.

SHORT TITLE, s. 1.

ASSIGNMENT OF DOWER WITHOUT ACTION, s. 2.

TENANT SERVED WITH WRIT TO NOTIFY LANDLORD, s. 3.

MODE OF ESTIMATING DAMAGES, s. 4.

ASSIGNMENT OF DOWER AFTER JUDGMENT, ss. 5-17.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Dower Procedure Act.*" Short title. R. S. O. 1887, c. 56, s. 1.

2. The dowress and the tenant of the freehold may, by any instrument under their hands and seals, executed in the presence of two witnesses, agree upon the assignment of dower, or upon a yearly sum, or a gross sum to be paid in lieu and satisfaction of dower, and a duplicate of the instrument, proved by the oath of one of the subscribing witnesses, shall be registered in the proper registry office, and shall entitle the dowress to hold the land so assigned to her, against the assignor and all parties claiming through or under him, as tenant for her life, or to distrain for, or to sue for, and recover in any Court having jurisdiction to the amount, the annual or other sum agreed to be paid to her by the tenant of the freehold; and the instrument so registered shall be a lien upon the land for such yearly or other sum, and shall be a bar to any action or proceeding by the dowress for dower in the lands mentioned therein. R. S. O. 1887, c. 56, s. 4.

Dowress and tenant may agree upon assignment, etc.

3. Every tenant in possession, who is not also tenant of the freehold, and who is served with a writ of summons in an action for the recovery of dower shall forthwith give notice thereof to his landlord or other person under whom he entered into possession, under the penalty of forfeiting the value of three years' improved rent of the premises in the possession of the tenant, to the person under whom he entered into possession, to be recovered by action in the High Court. R. S. O. 1887, c. 56, s. 5. 59 V. c. 18, Sched. (37).

Tenant in possession, not also tenant of freehold to notify landlord.

Penalty.

Mode of estimating damages for detention of dower, etc.

4. In estimating damages for the detention of dower or the yearly value of the lands, for the purpose of fixing a yearly sum of money in lieu of an assignment of dower by metes and bounds, the value of permanent improvements made after the alienation of the lands by the husband, or after the death of the husband, shall not be taken into account; but the damages or yearly value shall be estimated upon the state of the property at the time of such alienation or death, allowing for the general rise, if any, in the price and value of the land in the particular locality. R. S. O. 1887, c. 56, s. 6.

ASSIGNMENT OF DOWER AFTER JUDGMENT.

Sheriff to appoint Commissioners to admeasure the dower, etc.

5. The Sheriff, on receipt of the writ, shall by writing under his seal of office, appoint two resident freeholders of his County who are rated upon the assessment roll for real estate of a value not less than \$2,000 each, and a duly authorized Ontario Land Surveyor, and each of whom would in other respects be eligible to serve as a juror between the parties named in the said writ, to be Commissioners to admeasure the dower, and the Sheriff shall, in such writing, set out a copy of the writ of assignment, and shall name therein a day on or before which the Commissioners shall make and return to him a report of their proceedings and determination in the execution of the duty assigned to them. R. S. O. 1887, c. 56, s. 8.

Provision in case of death, etc., of Commissioners.

6. In case of the death of, or refusal by, any or all of the Commissioners so appointed, the Sheriff shall, from time to time, in like manner, appoint another or others to perform the duty of any who may die or refuse. R. S. O. 1887, c. 56, s. 9.

Oath of Commissioners.

7. Every Commissioner so appointed shall, before entering upon the execution of his duty, take and subscribe an affidavit in the form or to the effect following; and the said Commissioners shall annex to their report the affidavits sworn by them, and return them to the Sheriff:

Form of oath.

"I, do swear that I am not of kin to the plaintiff (*naming her*) or to the defendant (*naming him*), or in any way interested in the lands out of which the assignment of dower is to be made by me, and that I will honestly, impartially, and to the best of my skill and ability, execute and perform the duties imposed upon me by the appointment of, Esquire, Sheriff of the County of, as a Commissioner for the admeasurement of dower between the said plaintiff and the said defendant according to law."

R. S. O. 1887, c. 56, s. 10.

Commissioners when sworn to be officers of the Court.

8. After taking and subscribing such affidavit, the Commissioners and each of them shall, for all purposes in the fulfilment of the duties by law required of them, be considered as officers of the Court, and shall be entitled to the same immunities and protection and be subject to the same liabilities and proceedings as a Sheriff, in the discharge of his duty. R. S. O. 1887, c. 56, s. 11.

9. It shall be the duty of the Commissioners :

Their duties.

1. To admeasure, designate and lay off without delay, by sufficient marks, descriptions, boundaries or monuments, one-third of the lands and premises mentioned in the writ of assignment, according to the nature of the land, whether meadow, arable, pasture or woodland, being a part of the lot or parcel of land and premises mentioned in the writ, and having always due regard to the nature and character of the buildings and erections on such lands and premises ;

To admeasure
dower by
bounds, etc. ;

2. To ascertain and determine what permanent improvements have been made upon the lands and premises since the death of the plaintiff's husband, or since the time her husband alienated the same to a purchaser for value, and if it can be done they shall award the dower out of such part of the lands as does not embrace or contain such permanent improvements ; but if that cannot be done, they shall deduct either in quantity or value from the portion to be by them allotted or assigned to the plaintiff in proportion to the benefit she may or will derive from the assignment to her as part of her dower of any part of such permanent improvements ;

ascertain im-
provements,
etc. ;

3. If from peculiar circumstances, such as there being a mill or mills or manufactory upon the land, the Commissioners cannot make a fair and just assignment of dower by metes and bounds, they shall assess a yearly sum of money, being as near as may be one-third of the clear yearly rents of the premises, after deducting any rates or assessments payable thereon and in assessing such yearly sum they shall make allowances and deductions for permanent improvements, as above provided for, and in their report to the Sheriff they shall state the amount of such yearly sum and set forth all the evidence taken by them in relation to the same, such evidence to be reduced to writing and taken upon oath (which oath any one of the Commissioners is hereby authorized to administer). and to be subscribed by the witness examined ;

and, where
they cannot
assign bounds,
etc., to assess
a yearly sum.

Evidence
on oath.

4. Such yearly sum shall be a lien upon the lands mentioned in the writ of assignment, unless the Commissioners specially direct otherwise, and make the same issuable and payable out of some specific portion of the lands, and the same shall be recoverable by distress as for rent or by action against the tenant of the freehold for the time being ;

Such sum to
be a lien on
lands, unless
otherwise di-
rected.

5. The report of the Commissioners shall be in writing, subscribed by them and directed to the Sheriff, and shall contain a full statement of their proceedings, and where the dower is assigned by metes and bounds, shall distinctly point out and describe the same, and the posts, stones or other monuments designating the boundaries, and for the purpose of planting and marking the posts, stones or monuments, the Commissioners may, if necessary, employ chain-bearers and labourers.

Report of
Commission-
ers.

Sheriff may
enlarge time
for report.

Return of writ
with report.

Either party
may appeal
from report.

Order of Court
thereon.

Effect of re-
port being
appealed from
for miscon-
duct, etc.

Costs of
appeal.

10. The Sheriff may, in his discretion, upon the request of the Commissioners, enlarge the time for making their report, for not more than ten days, and he shall, within twenty-four hours after the receipt thereof, endorse thereon the day and hour of the receipt, and he shall then forthwith return the writ of admeasurement of dower, together with the report and all papers annexed thereto, to the office wherein the action was commenced and carried on. R. S. O. 1887, c. 56, s. 13.

11. Either party may, within a month from the filing of the Sheriff's return to the writ of assignment, or within such further time as a Court or Judge may under special circumstances allow, appeal from the report of the Commissioners to a Judge in Court, upon grounds apparent on the report and papers filed therewith, or may apply to set aside the same, upon such other grounds verified by affidavit as the Judge may see fit, every such ground being set forth in the notice served, and the Judge may vary or amend the report in any way and to any extent that he may deem proper, or refer the same back to the Commissioners for amendment in whole or in part, with such directions as to law or fact as he may deem proper, or he may confirm the same, or may annul and set aside the report and may appoint three new Commissioners or direct that the Sheriff shall do so, and the new Commissioners shall have the same powers and execute the same duties, and be subject to the same conditions and responsibilities as are in that behalf hereinbefore expressed, and the report of the new Commissioners shall be treated as if no other report had been previously made, and shall be dealt with and proceeded upon accordingly. R. S. O. 1887, c. 56, s. 14.

12. If the report is moved against upon the ground of misconduct or fraud on the part of the Commissioners, the Court may, in its discretion, make them parties to the proceeding and if wilful misconduct or fraud be established in the opinion of the Court, the report may be set aside and the commissioners be adjudged to pay to the parties injured all the costs which have been incurred and have been rendered useless by such misconduct or fraud, and all the costs of the proceeding to set aside the report; and the payment may be enforced by the like process and proceedings as are from time to time in use to compel a Sheriff to pay costs of any summary proceeding against him. R. S. O. 1887, c. 56, s. 15.

13. The appeal or application may be dismissed with or without costs, and the Court may order the party at whose instance, or on whose complaint or representation, the Commissioners may have been made parties to the proceeding to pay the Commissioners their costs; and if the appeal or application is dismissed, or if the report is not appealed from or moved against within the proper time, the report shall thenceforth be final and conclusive on all parties to the action of dower, and

a copy of the report, certified by the Registrar under the seal of the Court, shall be registered in the proper Registry Office for which service the Registrar of deeds shall be entitled to receive \$1. R. S. O. 1887, c. 56, s. 16.

Copy of report when final to be registered.

14. After such registration the plaintiff shall be entitled to sue out a writ directed to the proper Sheriff, commanding him to put her into possession of the lands and premises assigned and admeasured to her for her dower, and to levy all such costs as by the judgment and any order of Court, or either of them, have been awarded to her against the defendant. R. S. O. 1887, c. 56, s. 17.

Plaintiff may after registration sue out writ of possession.

15.—(1) In case it is desired by either party to produce any witness before the Commissioners, such party may, on application to the Court or to a Judge, on affidavit that the evidence of such witness is necessary, obtain an order commanding the attendance of the witness before the Commissioners, and if in addition to the service of the order, an appointment of time and place of attendance in obedience thereto, signed by one of the Commissioners, be served on the person whose evidence is required, either with or after the service of the order, non-attendance shall be deemed a contempt of Court, and shall be punishable accordingly.

Mode of procuring attendance of witnesses before Commissioners.

(2) The person so required to attend shall be entitled to be paid the same fees, allowance and conduct money as if he had been subpœnaed as a witness in an ordinary action, but no witness shall be obliged to attend more than two consecutive days. R. S. O. 1887, c. 56, s. 18.

Payment of witnesses.

16. The Commissioners shall be entitled to receive from the plaintiff the sum of \$4 for each day's attendance, not, however, to exceed two, and may also charge at the rate of twenty cents for every hundred words for drawing up their report, and ten cents for every hundred words of each copy furnished by them to either party. R. S. O. 1887, c. 56, s. 19.

Commissioners' fees.

17. The plaintiff shall pay the costs of suing out, and the costs of the Commissioners in executing the writ of assignment of dower, and making the report thereof, but each party shall pay his own costs of witnesses, or of counsel or solicitor attending before the Commissioners. R. S. O. 1887, c. 56, s. 20.

By whom costs to be paid.

CHAPTER 68.

An Act respecting Actions of Libel and Slander.

INTERPRETATION, s. 1, 8 (2).	PRIVILEGED REPORTS, ss. 8, 9.
WHETHER A PUBLICATION AMOUNTS TO A LIBEL, A QUESTION FOR THE JURY, s. 2.	SECURITY FOR COSTS, s. 10.
AVERTMENTS IN ACTIONS FOR LIBEL OR SLANDER, s. 3.	PLACE OF TRIAL, s. 11.
APOLOGY MAY BE SHEWN IN MITIGATION OF DAMAGES, s. 4.	SUBSEQUENT SECTIONS TO APPLY ONLY TO NEWSPAPERS PUBLISHED IN ONTARIO, s. 12.
SPECIAL DAMAGES NEED NOT BE PROVED IN CERTAIN SLANDERS OF WOMEN, s. 5.	LIMITATIONS OF ACTIONS, s. 13.
PLEA OF PUBLICATION WITHOUT MALICE OR GROSS NEGLIGENCE WITH AN APOLOGY, s. 6.	CONSOLIDATION OF ACTIONS, s. 14.
PAYMENT INTO COURT BY WAY OF AMENDS, s. 7.	ORDER OF JUDGE RESPECTING SECURITY FINAL, s. 15.
	DAMAGES RECOVERED IN OTHER ACTIONS, ETC., MAY BE PROVED IN MITIGATION, s. 16.
	AUTHOR OF LIBEL MAY BE JOINED AS A DEFENDANT, s. 17.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Interpreta-
tion.

“Newspaper.”

1. In this Act “newspaper” shall mean any paper containing public news, intelligence, or occurrences, or any remarks or observations thereon, printed for sale and published periodically, or in parts or numbers, at intervals not exceeding twenty-six days between the publication of any two such papers, parts or numbers, and any paper printed in order to be dispersed and made public weekly or oftener, or at intervals not exceeding twenty-six days, and containing only, or principally, advertisements. R. S. O. 1887, c. 57, s. 1; 57 V. c. 27, s. 2 part; 60 V. c. 15, s. 8.

Jury not to be directed to return a verdict of guilty on the mere proof of the publication and of the sense ascribed.

2. On the trial of an action for the making or publishing a libel, on the defence of not guilty, the jury sworn to try the issue may give a general verdict of guilty, or not guilty, upon the whole matter put in issue in the action, and shall not be required or directed by the Court or Judge, before whom the action is tried, to find the defendant guilty, merely on the proof of publication by the defendant of the paper charged to be a libel, and of the sense ascribed to the same in the action; but the Court or Judge before whom the trial is had shall, according to the discretion of the Court or Judge, give the opinion and directions of the Court or Judge to the jury on

the matter in issue, as in other cases; and the jury may on such issue find a special verdict, if they think fit so to do, and the defendant, if found guilty, may move in arrest of judgment on such ground and in such manner as he might have moved before the passing of this Act. R. S. O. 1887, c. 57, s. 2.

3. In actions of libel and slander, the plaintiff may aver that the words or matter complained of were used in a defamatory sense, specifying the defamatory sense without any prefatory averment to shew how the words or matter were used in that sense, and the averment shall be put in issue by the denial of the alleged libel or slander; and where the words or matter set forth, with or without the alleged meaning, shew a cause of action, the statement of claim shall be sufficient. R. S. O. 1887, c. 57, s. 3.

Averments in actions for libel or slander.

4. In an action for defamation where the defendant has pleaded not guilty only, or has suffered judgment by default, or judgment has been given against him on demurrer, he may give in evidence, in mitigation of damages, that he made or offered a written or printed apology to the plaintiff for such defamation before the commencement of the action; or in case the action was commenced before there was an opportunity of making or offering such apology, that he did so as soon afterwards as he had an opportunity. R. S. O. 1887, c. 57, s. 4.

Defendant may prove in mitigation that he offered a written or printed apology.

5.—(1) In an action of slander for defamatory words spoken of any woman and imputing or meaning that such woman has committed or been guilty of adultery, fornication or concubinage, it shall not be necessary to allege in the plaintiff's statement of claim, or to prove at the trial, that any special damage resulted to the plaintiff from the utterance of such words, but the plaintiff may recover nominal damages without averment or proof of special damage.

Proof of special damage not required in certain cases.

(2) A plaintiff shall not under this section, or because or by reason of the provisions in this section contained, be entitled to recover a verdict in any such action, unless the statement of claim contains an allegation that the action is brought by the plaintiff under the provisions of this section.

Statement of claim to refer to this section.

(3) In any such action, the defendant may, at any time after the filing of the statement of claim, apply to the Court or a Judge for security for costs, upon notice and an affidavit by the defendant shewing the nature of the action and that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a verdict or judgment is given in favor of the defendant, and that the defendant has a good defence to the action on the merits, or that the grounds of action are trivial or frivolous; and the Court or Judge may make an order that the plaintiff shall give security for the costs to be incurred in such action, and the security so ordered shall be given in accordance with the practice in cases where

Security for costs.

a plaintiff resides out of the Province, and the order shall be a stay of proceedings until the proper security is given.

Examination
of parties.

(4) For the purposes of sub-section 3 of this section the plaintiff or the defendant may be examined upon oath at any time after the statement of claim has been filed. 52 V. c. 14, s. 1.

Defendant
may plead that
the libel was
inserted with
out malice or
gross neglig-
ence, and
that he pub-
lished or
offered to pub-
lish an
apology.

6.—(1) In an action for libel contained in a newspaper, the defendant may plead that the libel was inserted in the newspaper without actual malice and without gross negligence, and that before the commencement of the action, or at the earliest opportunity afterwards, he inserted in the newspaper a full apology for the libel; or if the newspaper in which the libel appeared is one ordinarily published at intervals exceeding one week, that he offered to publish the apology in any newspaper to be selected by the plaintiff in the action.

Action not to
lie till notice
given.

(2) No such action shall lie unless and until the plaintiff has given to the defendant notice in writing, specifying the statements complained of, such notice to be served in the same manner as a plaintiff's statement of claim is served or by delivering the notice to some grown up person at the place of business of the defendant. The plaintiff shall recover actual damages only, if it appears on the trial of the action, that the article was published in good faith, and that there was reasonable ground to believe that the same was for the public benefit, and if it did not involve a criminal charge, and if it appears that the publication took place in mistake or misapprehension of the facts, and that a full and fair retraction of any statement therein alleged to be erroneous was published either in the next regular issue of the newspaper, or in any regular issue thereof published within three days after the receipt of such notice, and was so published in as conspicuous a place and type as was the article complained of,

Section not to
apply to cer-
tain cases.

(3) The provisions of this section shall not apply to the case of any libel against any candidate for a public office in this Province, unless the retraction of the charge is made editorially in a conspicuous manner, at least five days before the election. R. S. O. 1887, c. 57, s. 5.

And may pay
money into
Court as
amends.

7. A defendant, upon filing the defence in the preceding section mentioned, may pay into Court a sum of money by way of amends for the injury sustained by the publication of the libel, and such payment shall be of the same effect, and available to the same extent and in the same manner, and be subject to the same rules and regulations as to costs, and the form of pleading (except so far as regards the additional facts hereinbefore required to be pleaded by the defendant), as payment of money into Court in other cases; and to such defence the plaintiff may reply generally, denying the whole thereof. R. S. O. 1887, c. 57, s. 6.

8.—(1) A report published in a newspaper of the proceedings of a public meeting shall be privileged, if the meeting was lawfully convened for a lawful purpose and open to the public, and if the report was fair and accurate, and published without malice, and if the publication of the matter complained of was for the public benefit; Provided always, that the protection intended to be afforded by this section shall not be available as a defence in any proceeding, if the plaintiff can shew that the defendant has refused to insert in a newspaper in which the report containing the matter complained of appeared, a reasonable letter or statement of explanation or contradiction by or on behalf of the plaintiff

Fair reports of public meetings to be privileged.

Proviso.

(2) The words “a public meeting” in this section shall extend to any lawful meeting to which the public are invited, and of which announcement has been made by printed or written notice thereof being posted up in at least six conspicuous places in the municipality where the meeting is held, or by advertisement in a newspaper published in such municipality, or if there be none published therein then in the one published nearest to the place of meeting. R. S. O. 1887, c. 57, s. 7.

Meaning of “public meeting”.

9. All reports of proceedings in any Court of Justice, published in a newspaper shall be privileged, provided that they are fair and authentic and without comments, unless the defendant has refused or neglected to insert in the newspaper in which the report complained of appeared a reasonable letter or statement of explanation or contradiction, by or on behalf of the plaintiff. R. S. O. 1887, c. 57, s. 8.

Report of proceedings in Courts privileged.

10.—(1) In an action brought for libel contained in a newspaper, the defendant may, at any time after the filing of the statement of claim, apply to the Court or a Judge for security for costs, upon notice and an affidavit by the defendant or his agent, shewing the nature of the action and of the defence, and shewing that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a verdict or judgment is given in favour of the defendant, and that the defendant has a good defence upon the merits, and that the statements complained of were published in good faith, or that the grounds of action are trivial or frivolous; and the Court or Judge may make an order that the plaintiff shall give security for the costs to be incurred in such action, and the security so ordered shall be given in accordance with the practice in cases where a plaintiff resides out of the Province, and the order shall be a stay of proceedings until the proper security is given as aforesaid.

Security for costs.

(a) But where the alleged libel involves a criminal charge the defendant shall not be entitled to security for costs under this Act, unless he satisfies the Court or Judge that the action is trivial or frivolous,

or that the several circumstances which under subsection 2 of section 6 of this Act entitle the defendant at the trial to have the damages restricted to actual damages appear to exist, except the circumstance that the article complained of involves a criminal charge.

(2) For the purposes of this section the plaintiff or the defendant or their agents may be examined upon oath at any time after the statement of claim has been filed. R. S. O. 1887, c. 57, s. 9.

Place of trial. **11.** Every action for libel contained in a newspaper shall be tried in the county where the chief office of such newspaper is, or in the county wherein the plaintiff resides at the time the action is brought; but upon the application of either party the Court or a Judge may direct the issues to be tried or the damages to be assessed in any other county if it be made to appear to be in the interests of justice, or that it will promote a fair trial, and may impose such terms as to the payment of witness fees, and otherwise as may seem proper. R. S. O. 1887, c. 57, s. 10.

Application of following sections of Act. **12.** The following sections of this Act shall only apply to newspapers printed for sale and published in this Province, but nothing therein contained shall be construed as taking away any right which a newspaper not published in the Province may have under the preceding sections of this Act. 57 V. c. 27, s. 2 part; s. 10.

Time within which action must be brought. **13.** Every action for libel contained in a newspaper shall be commenced within three months after the publication complained of has come to the notice or knowledge of the person defamed; but where an action is brought and is maintainable for any libel published within said period of three months such action may include a claim or claims for any other libel published against the plaintiff by the defendant in the same newspaper within a period of one year prior to the commencement of the action. 57 V. c. 27, s. 4.

Consolidation of different actions for same libel. **14.—(1)** It shall be competent for a Judge of the High Court of Justice upon an application by or on behalf of two or more defendants, in any two or more actions for the same or substantially the same libel, brought by one and the same person to make an order for the consolidation of such actions, so that they shall be tried together; and after such order has been made, and before the trial of the said actions, the defendants, in any new actions, instituted in respect to the same or substantially the same libel, shall also be entitled to be joined in a common action upon a joint application being made by such new defendants and the defendants in the actions already consolidated.

(2) In a consolidated action under this section the jury shall assess the whole amount of the damages, if any, in one sum, but a separate verdict shall be taken for or against each defendant in the same way as if the actions consolidated had been tried separately; and if the jury shall have found a verdict against the defendant or defendants, in more than one of the actions so consolidated, they shall proceed to apportion the amount of damages which they shall have so found between and against the said last mentioned defendants; and the Judge at the trial, in the event of the plaintiff being awarded the costs of the action, shall thereupon make such order as he shall deem just for the apportionment of such costs between and against such defendants. 57 V. c. 27, s. 5.

How damages assessed and costs apportioned in such cases.

15. An order made under section 10 by a Judge of the High Court granting or refusing security for costs in an action for libel contained in a newspaper shall be final and shall not be subject to appeal, and where the order is made by a Local Judge the same may be appealed from to a Judge of the High Court sitting in Chambers, whose order shall be final and shall not be subject to appeal. 57 V. c. 27, s. 7.

Order of Judge respecting security final.

16. Upon the trial of any action for libel contained in a newspaper, the defendant shall be at liberty to give in evidence, in mitigation of damages, that the plaintiff has already brought actions for, or has recovered damages, or has received or agreed to receive compensation in respect of a libel or libels to the same purport or effect as the libel for which such action has been brought. 57 V. c. 27, s. 3.

Evidence in mitigation of damages.

17.—(1) In any action instituted for the publication in a newspaper of any defamatory matter which has been communicated in writing by any person to such newspaper with a view to its publication therein, the defendant may at any stage of the proceedings, upon notice to such person and an affidavit verifying the facts, apply to a Judge in chambers for an order joining such person as a party defendant in the action, and such person may be so joined on such terms as may appear to be just; and thereafter the defendant in the action, who is charged with the publication in the newspaper of the defamatory matter complained of, may claim in the action against the party so joined as aforesaid any remedy over or relief to which, under the circumstances he may by law be entitled against such party.

Joinder of certain persons as party defendants.

(2) This section shall not apply where the defamatory matter was known by the defendant to be untrue, or was contained in an anonymous communication. 57 V. c. 27, s. 6.

CHAPTER 69.

An Act respecting the Action for Seduction.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Action when maintainable by father or mother.

1. The father or, in case of his death, the mother (whether she remains a widow or remarries) of any unmarried female who has been seduced, and for whose seduction the father or mother could maintain an action in case such unmarried female was at the time dwelling under his or her protection, may maintain an action for the seduction, notwithstanding such unmarried female was, at the time of her seduction, serving or residing with another person, upon hire or otherwise. R. S. O. 1887, c. 58, s. 1.

Proof of service dispensed with.

2. Upon the trial of an action for seduction brought by the father or mother, it shall not be necessary to prove any act of service performed by the person seduced, but the same shall in all cases be presumed, and no evidence shall be received to the contrary; but in case the father or mother of the female seduced had, before the seduction, abandoned her, and refused to provide for and retain her as an inmate, then any other person who might at Common Law have maintained an action for the seduction may maintain such action. R. S. O. 1887, c. 58, s. 2.

When action maintainable by master, etc.

3. Any person, other than the father or mother, who by reason of the relation of master, or otherwise, would have been entitled at Common Law to maintain an action for the seduction of an unmarried female, may still maintain such action, if the father or mother be not resident in Ontario at the time of the birth of the child which is born in consequence of the seduction, or being resident therein does not bring an action for the seduction within six months from the birth of the child. R. S. O. 1887, c. 58, s. 3.

Where father or mother not resident in Ontario.

CHAPTER 70.

An Act respecting the Administration by the Crown of Estates of Intestates.

APPLICATION BY THE ATTORNEY-GENERAL FOR ADMINISTRATION WHERE THE CROWN IS INTERESTED, s. 1.	RECOVERY OF REAL ESTATE, s. 8.
APPLICATION IN CASES WHERE AN INTESTATE LEAVES NO KNOWN RELATIVES IN THE PROVINCE, s. 2.	RIGHT OF ATTORNEY-GENERAL TO INTERVENE WHERE ADMINISTRATION GRANTED TO STRANGERS, s. 9.
RIGHTS, ETC., OF ATTORNEY-GENERAL TO VEST IN HIS SUCCESSORS, s. 3.	DISPOSITION OF MONEYS RECEIVED BY THE ATTORNEY-GENERAL, s. 10.
SECURITY DISPENSED WITH, s. 4.	INTEREST ALLOWABLE TO PERSONS ENTITLED TO MONEYS, s. 11.
POWER OF ADMINISTRATOR TO SELL REAL ESTATE, s. 5.	RIGHTS OF PERSONS HAVING CLAIMS ON THE ESTATE, s. 12.
RIGHTS OF RELATIVES AFTER ISSUE OF ADMINISTRATION, s. 6.	ATTORNEY-GENERAL MAY RETAIN DISBURSEMENTS MADE IN RESPECT OF INQUIRIES, s. 13.
INQUIRIES AS TO THE RIGHTS OF THE CROWN WHERE ADMINISTRATION GRANTED TO ATTORNEY-GENERAL, s. 7.	PROTECTION OF ATTORNEY-GENERAL ACTING AS ADMINISTRATOR, s. 14.
	DISTRIBUTION OF ASSETS BY ATTORNEY-GENERAL, ss. 15, 16.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. So often as the Lieutenant-Governor, by a warrant under his privy seal, is pleased to direct Her Majesty's Attorney-General for Ontario to apply for and obtain letters of administration (whether general or limited) of the estate and effects of any person dying intestate, or intestate as to some part of his estate, where, in respect of the interest of Her Majesty in the estate and effects, the administration may be rightfully granted to a nominee of Her Majesty, it shall be lawful for any competent Court, upon application, in pursuance of such warrant, to grant administration to the Attorney-General and his successors in the office of Attorney-General for Ontario, for the use and benefit of Her Majesty. R. S. O. 1887, c. 59, s. 1.

Adminis-
tration may
issue to the
Attorney-
General in
cases where
nominee of the
Crown entitled
to administer.

2. Where any person dies in this Province intestate as aforesaid, and without leaving any known relatives

Attorney-
General may
obtain letters
of administra-

tion where intestate leaves no known relatives within the Province, etc.

living within the Province, or any known relatives who can be readily communicated with, living elsewhere, the Lieutenant-Governor may (if he thinks fit) by warrant under his privy seal direct the Attorney-General for Ontario to apply for and obtain letters of administration, whether general or limited, of the estate and effects of such person; and it shall be lawful for any competent Court upon application in pursuance of the warrant, to grant administration to the Attorney-General and his successors in the office of Attorney-General, for the use and benefit of Her Majesty or of such persons as may ultimately appear to be entitled thereto. R. S. O. 1887, c. 59, s. 2.

Rights and liabilities of the Attorney-General as administrator to vest in his successors.

3. The administration so granted, and the office of administrator under the grant, with all the estates, rights, duties and liabilities of such administrator, shall, upon the death, resignation, or removal of the Attorney-General for Ontario for the time being, devolve upon and become vested and continue in the succeeding Attorney-General, by virtue of his appointment, and so in perpetual succession, without any further grant of administration or any assignment or transfer of the estates of the administrator; and all actions, and other proceedings whatever by or against the Attorney-General for the time being, as such administrator at the time of his death, resignation, or removal, shall continue, and may be proceeded with, by, in favour of, and against the succeeding Attorney-General, in like manner; saving always, the effect of every limitation in duration or otherwise under the terms of the grant of such administration, and saving to every Court having jurisdiction in this behalf all such right and authority to revoke or repeal such administration as the Court would have had during the continuance of a like administration granted to a nominee of Her Majesty in case this Act had not been passed. R. S. O. 1887, c. 59, s. 3.

Power to revoke administration.

Security for due administration dispensed with.

Liability of Attorney-General to be as in condition of bond.

Rev. Stat. c. 59.

4. It shall not be necessary for the Attorney-General applying for or obtaining grants of administration to the use or benefit of Her Majesty, to enter into, or cause to be entered into, any bond to the Judge of the Surrogate Court; but the Attorney-General shall, in relation to every such administration, be subject to all the liabilities and duties imposed on an administrator by the condition of the bond prescribed by the rules and orders now in force or hereafter made under *The Surrogate Courts Act*. R. S. O. 1887, c. 59, s. 4.

Power to sell the real estate of the intestate.

5. Where administration is granted to the Attorney-General, the Lieutenant-Governor in Council may direct the sale, either by auction or private sale, of any real estate or interest therein in Ontario to which the intestate died entitled; and the Attorney-General shall thereupon be authorized to sell in accordance with the directions of any Order in Council in that behalf, the whole, or any part of the real estate aforesaid,

and to convey the same to the purchaser; and every conveyance by the Attorney-General or his successor in office shall be as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same. R. S. O. 1887, c. 59, s. 5.

6. In case subsequently to the grant of administration it is alleged or ascertained that the deceased has relatives or did not die intestate, the Attorney-General may, if he thinks fit, exercise, subject to the discretion of the Lieutenant-Governor in Council, all or any of the powers by this Act conferred until some person is appointed by some Court of competent jurisdiction to deal with the estate of the deceased; and notwithstanding such appointment, any sale made in pursuance of this Act may be completed by the execution by the Attorney-General of a conveyance; and until the revocation of the letters granted, the Attorney-General may exercise fully all the powers vested in him as administrator of the estate of the deceased. R. S. O. 1887, c. 59, s. 6.

Rights of relations after the issue of administration.

7. Where administration is taken out under the provisions of this Act, the Attorney-General may apply to the High Court for an order for the making of such inquiries as may be necessary to determine whether or not Her Majesty is entitled to any portion of the estate of the deceased on account of the deceased dying intestate and without heirs or next of kin, or otherwise; and any judgment made upon such inquiry shall, unless reversed on appeal, be final and conclusive. R. S. O. 1887, c. 59, s. 7.

Inquiry as to the rights of Her Majesty.

8.—(1) Where a person dies in possession of, or entitled to real estate in Ontario, intestate as to such real estate, without any known heirs, the Attorney-General may apply to the High Court for an order for the making of such inquiries as may be necessary to determine whether or not Her Majesty is entitled to any portion of the real estate of the deceased on account of his dying intestate, and without heirs; and any judgment or order given upon such inquiry shall, unless reversed on appeal, be final and conclusive.

Recovery by Crown of real estate of persons dying intestate and without heirs

(2) Where the Attorney-General is entitled to apply under the preceding subsection, he may bring an action, either in his own name, on behalf of Her Majesty, or in the name of Her Majesty, to recover possession of the real estate of the deceased and shall be entitled to judgment and to recover possession, unless the person claiming adversely shews that the deceased did not die intestate, as to such real estate, or that he left heirs, or that some other person is entitled to the said real estate. R. S. O. 1887, c. 59, s. 8.

When Attorney-General may recover.

Application by Attorney-General to compel an account by administrator in certain cases.

9. Where a person has died or dies intestate in this Province, and administration has been or may be hereafter granted to some person not one of the next of kin, and it is doubtful whether the intestate left any next of kin him surviving, or there are no known next of kin resident in Ontario, the Attorney-General, if he deems it in the interest of justice, may apply to the High Court for an order requiring the administrator to account for his dealings with the estate, and may question in such proceedings the validity of any releases or settlements with any alleged next of kin, and it shall be lawful for any competent court to revoke such administration, and to grant administration to the Attorney-General and his successors in the office of the Attorney-General. 60 V. c. 14, s. 82.

Disposition of moneys.

10. Moneys realized from estates to which the Attorney-General is administrator under this Act, shall be kept in a separate account in such bank or invested in such manner as the Lieutenant-Governor may from time to time appoint, and all moneys which have been unclaimed for ten years shall from time to time be paid into the Consolidated Revenue Fund of Ontario. R. S. O. 1887, c. 59, s. 9.

Interest allowable to person entitled to moneys.

11. Any person proving title to such moneys shall be entitled to receive the same with interest at such a rate as the Lieutenant-Governor may, having regard to the rate realized therefrom, from time to time direct. R. S. O. 1887, c. 59, s. 10.

Rights of persons having claims upon the estate.

12. Any one claiming to be entitled to such estate or to any interest therein or to any part of the proceeds thereof, may apply to the High Court upon petition for an order or judgment declaring his rights in respect thereto; and the Court may thereupon order such inquiries as may be necessary to determine the same and may finally adjudicate thereupon: but no application under this section shall be entertained unless security for costs is given by the applicant in case the Attorney-General thinks fit to demand the same. R. S. O. 1887, c. 59, s. 11.

Attorney-General may retain disbursements made in respect of inquiries.

13. The Attorney-General may deduct from moneys received on account of any estate all disbursements made by him in respect to inquiries which he may have considered it expedient to make before taking out administration, as well as disbursements otherwise made by him in respect of the estate. R. S. O. 1887, c. 59, s. 12.

Protection of Attorney-General acting as administrator.

14. Where the Attorney-General is appointed or becomes administrator or trustee for an estate, and he or any of his predecessors in the trust has given such notice as under *The Trustee Act* would be sufficient for the protection of an

administrator, the provisions of the said Act shall apply to the Attorney-General, and to the estate. R. S. O. 1887, c. 59, s. 13.

15. After such notice, and notwithstanding the ten years limited by section 10 of this Act have not elapsed, the Attorney-General may pay any money remaining in his hands unclaimed into the Consolidated Revenue Fund of Ontario; or may pay the same or any part thereof, or assign over personal property remaining in his hands, in accordance with any direction of the Lieutenant-Governor in Council, made under section 6 of *The Act respecting Escheats and Forfeitures*. R. S. O. 1887, c. 59, s. 14.

Distribution of assets by Attorney-General after notice.

Rev. Stat. c. 114.

16. In such case no claim shall be maintained against Her Majesty, or this Province, in respect of any moneys or personal property paid over or assigned to any person or persons under said section 6 of *The Act respecting Escheats and Forfeitures* aforesaid, or under this Act; but this shall not prejudice the right of a creditor or claimant to follow the said moneys or property or proceeds into the hands of the person who may have received the same under the authority of an Order in Council. R. S. O. 1887, c. 59, s. 15.

Her Majesty and the Province not liable where property transferred but right to follow property not affected. Rev. Stat. c. 114.

CHAPTER 71.

An Act relating to Leases, Sales and Mortgages of Settled Estates.

SHORT TITLE, s. 1.

INTERPRETATION, ss. 2, 47.

LEASES, ss. 3-13.

SALES AND MORTGAGES, ss. 14-18.

DEDICATING AND MAINTAINING
STREETS, ss. 19, 20.

PROCEEDINGS IN COURT, ss. 21-32.

APPLICATION OF MONEYS, ss. 33-36.

POWERS CONFERRED ON COURT MAY
BE EXERCISED REPEATEDLY, ss.
37-38.ACTS OF COURT TO BE CONCLUSIVE,
ss. 39, 40.

COSTS, s. 41.

LEASES BY TENANTS FOR LIFE, ETC.,
ss. 42, 43.

WHO MAY CONSENT, ss. 44-47.

APPLICATION OF ACT, ss. 38, 48, 49.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Settled Estates Act.*" 58 V. c. 20, s. 1.

INTERPRETATION.

Interpreta-
tion.Imp. Act 40
and 41 V. c.
18, ss. 2, 3.
"Settlement."

2.—(1) The word "settlement" as used in this Act signifies any Act of Parliament, deed, agreement, will or other instrument, or any number of such instruments, under or by virtue of which any hereditaments of any tenure or any estates or interests in any such hereditaments stand limited to or in trust for any persons by way of succession, including any such instruments affecting the estates of any one or more of such persons exclusively.

"Settled
estates."

(2) The term "settled estates," as used in this Act, signifies all hereditaments of any tenure, and all estates or interests in any such hereditaments, which are the subject of a settlement; and for the purposes of this Act a tenant in tail after possibility of issue extinct shall be deemed to be a tenant for life.

Tenant in tail
after possi-
bility of issue
extinct.Estates in
remainder or
reversion not
disposed of by
settlement.

(3) All estates or interests in remainder or reversion not disposed of by the settlement, and reverting to a settlor or descending to the heir, or as upon an intestacy to the representative of a testator, shall be deemed to be estates coming to such settlor, heir or representative under or by virtue of the settlement.

(4) In determining what are settled estates within the meaning of this Act the Court shall be governed by the state of facts, and by the trusts or limitations of the settlement at the time of the said settlement taking effect. Determining what are settled estates.

(5) The word "Court" in this Act shall mean the High Court of Justice for Ontario, but the jurisdiction hereby conferred shall be exercisable by any Judge or Judges of the said Court subject to the provisions of *The Judicature Act* and of the Rules of the Supreme Court of Judicature. 58 V. c. 20, s. 2. Rev. Stat., c. 51.

LEASES OF SETTLED ESTATES.

3. The Court, if it deems it proper and consistent with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Act contained, may authorize leases of any settled estates, or of any rights or privileges over or affecting any settled estates, for any purpose whatsoever, whether involving waste or not, provided the following conditions be observed : Power to authorize leases of settled estates. Imp. Act. 40 and 41 V. c. 18, s. 4.

Firstly. Every such lease shall be made to take effect in possession at or within one year after the making thereof, and shall be for such term of years as the Court shall direct, where the Court shall be satisfied that it is beneficial to the inheritance to grant such a lease. When lease to take effect.

Secondly. Any such lease may contain an agreement for the renewal, or renewals, thereof, if the court shall think fit, and the court may determine the length of time for which such renewal or renewals, if any, may be made. Agreements for renewal.

Thirdly. On every such lease shall be reserved the best rent or reservation in the nature of rent, either uniform or not, that can be reasonably obtained, to be made payable half-yearly or oftener without taking any fine or other benefit in the nature of a fine, and to be incident to the immediate reversion ; Provided always, that in the case of a mining lease, a repairing lease or a building lease, a nominal rent or any smaller rent than the rent to be ultimately made payable, may, if the Court shall think fit so to direct, be made payable during all or any part of the first five years of the term of the lease. Rent to be reserved. Proviso.

Fourthly. Where the lease is of any earth, coal, stone or mineral, a certain portion of the whole rent or payment reserved, shall be from time to time set aside and invested as hereinafter mentioned, namely, when and so long as the person for the time being entitled to the receipt of such rent is a person who by reason of his estate or by virtue of any declaration in the settlement is entitled to work such earth, coal, stone or mineral for his own benefit, one-fourth part of such rent, and otherwise three-fourth parts thereof ; and in every such lease sufficient provision shall be made to ensure such Reservation of rent in leases of earth, coal, stone or minerals.

application of the aforesaid portion of the rent by the appointment of trustees or otherwise as the Court shall deem expedient.

Cutting
timber.

Fifthly. No such lease shall authorize the cutting of any timber or the felling of any trees except in the ordinary course of husbandry, or so far as shall in the judgment of the court be necessary, or shall be made without impeachment of waste.

Form of
case.

Sixthly. Every lease shall be by deed, and shall be in duplicate, and shall be executed by the lessor and lessee; and every such lease shall contain a condition for re-entry on non-payment of the rent for a period of twenty-eight days after it becomes due, or for some less period to be specified in that behalf. 58 V. c. 20, s. 3.

Leases may
contain special
covenants.
Imp. Act 40
and 41 V. c.
18, s. 5.

4. Subject and in addition to the conditions hereinbefore mentioned, every such lease shall contain such covenants, conditions and stipulations as the court shall deem expedient with reference to the special circumstances of the demise. 58 V. c. 20, s. 4.

Parts of set-
tled estates
may be leased.
Imp. Act 40
and 41 V. c.
18, s. 6.

5. The power to authorize leases conferred by this Act shall extend to authorize leases either of the whole or any parts of the settled estate, and may be exercised from time to time. 58 V. c. 20, s. 5.

Leases may be
surrendered
and renewed.
Imp. Act 40
and 41 V. c.
18, s. 7.

6. Any leases, whether granted in pursuance of this Act, or otherwise, may be surrendered either for the purpose of obtaining a renewal of the same or not, and the power to authorize leases conferred by this Act shall extend to authorize new leases of the whole or any part of the hereditaments comprised in any surrendered lease. 58 V. c. 20, s. 6.

Power to
authorize
leases to
extend to
preliminary
contracts.
Imp. Act 40
and 41 V. c.
18, s. 8.

7. The power to authorize leases conferred by this Act shall extend to authorize preliminary contracts to grant any such leases, and any of the terms of such contracts may be varied in the leases. 58 V. c. 20, s. 7.

Mode in which
leases may be
authorized.
Imp. Act 40
and 41 V. c.
18, s. 10.

8. The power to authorize leases conferred by this Act may be exercised by the Court, either by approving of particular leases, or by ordering that powers of leasing in conformity with the provisions of this Act shall be vested in trustees in manner hereinafter mentioned. 58 V. c. 20, s. 8.

What evi-
dence to be
produced on an
application to
authorize
leases.
Imp. Act 40
and 41 V. c.
18, s. 11.

9. When application is made to the Court either to approve of a particular lease, or to vest any powers of leasing in trustees, the Court shall require the applicant to produce such evidence as it deems sufficient to enable it to ascertain the nature, value and circumstances of the estate and the terms and conditions on which leases thereof ought to be authorized. 58 V. c. 20, s. 9.

10. When a particular lease or contract for a lease has been approved by the Court, the Court shall direct what person or persons shall execute the same as lessor; and the lease or contract executed by such person or persons shall take effect in all respects as if he or they was or were at the time of the execution thereof absolutely entitled to the whole estate or interest which is bound by the settlement, and had immediately afterwards settled the same according to the settlement, and so as to operate (if necessary) by way of revocation and appointment of the use or otherwise, as the Court directs. 58 V. c. 20, s. 10,

After approval of a lease, court to direct who shall be lessor.

Imp. Act 40 and 41 V. c. 18, s. 12.

11. Where the Court deems it expedient that any general powers of leasing any settled estates conformably to this Act should be vested in trustees, it may, by order, vest any such powers accordingly, either in the existing trustees of the settlement or in any other persons, and such powers, when exercised by such trustees, shall take effect in all respects as if the powers so vested in them had been originally contained in the settlement, and so as to operate (if necessary) by way of revocation and appointment of the use or otherwise, as the court shall direct; and in every such case the Court, if it shall think fit, may impose any conditions as to consents or otherwise on the exercise of such power, and the Court may also authorize the insertion of provisions in any such order for the appointment of new trustees from time to time, for the purpose of exercising such powers of leasing as aforesaid. 58 V. c. 20, s. 11.

Powers of leasing may be vested in trustees.

Imp. Act 40 and 41 V. c. 18, s. 13.

12. In orders under this Act for vesting any powers of leasing in any trustees or other persons, no conditions shall be inserted requiring that the leases thereby authorized shall be submitted to or be settled by the Court, or a judge thereof, or be made conformable with a model lease, save only in any case in which the parties applying for the order may desire to have any such condition inserted, or in which it shall appear to the Court that there is some special reason rendering the insertion of such a condition necessary or expedient. 58 V. c. 20, s. 12.

Conditions that leases be settled by the court not to be inserted in orders made under this Act, unless under special circumstances

Imp. Act 40 and 41 V. c. 18, s. 14.

13. In all cases of orders (whether under this Act or under any other Act) in which any such condition as last aforesaid shall have been inserted, any party interested may apply to the court to alter and amend such orders by striking out such condition, and the Court may alter the same accordingly, and the order so altered shall have the same validity as if it had originally been made in its altered state; but nothing herein contained shall make it obligatory on the Court to act under this provision in any case in which from the evidence which was before it when the order sought to be altered was made, or from any other evidence, it shall appear to the Court that there is any special reason why in the case in question such a condition is necessary or expedient. 58 V. c. 20, s. 13.

Conditions where inserted may be struck out.

Imp. Act 40 and 41 V. c. 18, s. 15.

COURT MAY AUTHORIZE SALES OR MORTGAGES OF SETTLED
ESTATES.

Mortgages
and sales for
purpose of
repairs, etc.

14. The Court, if it deems it proper and consistent with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Act contained, may from time to time authorize a mortgage of the whole or any part or parts, of any settled estate in the Province for the purpose of raising money to repair, rebuild or alter any existing buildings upon the said estate, or otherwise to build upon or improve the same; or for the purpose of raising money to pay off and discharge wholly or in part any incumbrances existing thereon; or to authorize a sale of any part or parts of any settled estates for the purpose of raising money to repair, rebuild or alter any existing buildings upon the remainder of such settled estates, or otherwise to build upon or improve the same; or for the purpose of raising money to pay off and discharge wholly or in part any incumbrances existing thereon; and such sale or mortgage is to be authorized wherever the Court is of opinion that the interests of the estate or any part thereof or of the parties entitled to the estates or any part thereof, require, or will be substantially promoted by such sale or mortgage. 58 V. c. 20, s. 15.

Proceedings
for protection
of estate.
Imp. Act
45-46 V. c. 38,
s. 36.

15. The Court, if it deems it proper and consistent with a due regard for the interests of all parties who are or who may thereafter be entitled under the settlement, and subject to the provisions and restrictions in this Act contained, may sanction any action, defence, petition to the Legislature or other proceedings appearing to the Court necessary for the protection of any settled estate, and may order that all or any part of the costs and expenses in relation thereto be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estate, or be raised and paid out of the rents and profits of the settled estate, or out of any moneys, or investments representing moneys, liable to be laid out in the purchase of hereditaments to be settled in the same manner as the settled estate, or out of the income of such moneys or investments, or out of any accumulations of rents, profits or income. 58 V. c. 20, s. 16.

Sales of set-
tled estates
and of timber
may be
ordered.

Imp. Act 40-
41 V. c. 18, s.
16.

16. The Court if it deems it proper and consistent with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Act contained may from time to time authorize a sale of the whole or any part of any settled estates or of any timber (not being ornamental timber) growing on any settled estates, and every such sale shall be conducted and confirmed in the same manner as by the Rules and practice of the Court for the time being is required in the sale of lands sold under an order of the Court. 58 V. c. 20, s. 14.

17. When any land is sold for building purposes the Court, may if it sees fit, allow the whole or any part of the consideration to be a rent issuing out of such land, which may be secured and settled in such manner as the Court approves. 58 V. c. 20, s. 17.

Consideration for land sold for building may be a rental.
Imp. Act 40-41 V. c. 18, s. 18.

18. On any sale of land, any earth, coal, stone or mineral may be excepted, and any rights or privileges may be reserved and the purchaser may be required to enter into any covenants or submit to any restrictions which the Court deems advisable. 58 V. c. 20, s. 18.

Minerals, etc., may be excepted from sales.
Imp. Act 40-41 V. c. 18, s. 19.

DEDICATION AND MAINTENANCE OF STREETS, ROADS, ETC.

19. The Court if it deems it proper and consistent with a due regard for the interests of all parties entitled under the settlement, and subject to the provisions and restrictions in this Act and in *The Municipal Act*, *The Land Titles Act*, and in *The Registry Act* contained, may from time to time direct that any part of any settled estates be laid out for streets, roads, paths, squares, gardens, or other open spaces, sewers, drains, or watercourses, (either to be dedicated to the public or not) and may direct that the parts so laid out shall (subject to the provisions of the said Acts,) remain vested in the trustees of the settlement, or be conveyed to, or vested in any other trustees upon such trusts for securing the continued appropriation thereof to the purposes aforesaid in all respects, and with such provisions for the appointment of new trustees when required, as the Court deems advisable. 58 V. c. 20, s. 19.

Dedications for streets, etc.
Imp. Act 40-41 V. c. 18, s. 20.
Rev. Stat., cc. 223, 138, 136.

20. Where any part of any settled estates is directed to be laid out for such purposes as aforesaid, the Court may direct that any such streets, roads, paths, squares, gardens, or other open spaces, sewers, drains, or watercourses, including all necessary and proper fences, pavings, connections and other works incidental thereto respectively, be made and executed, and that all or any part of the expenses in relation to such laying out and making and execution, be raised and paid by means of a sale or mortgage of or charge upon all or any part of the settled estates, or be raised and paid out of the rents and profits of the settled estates or any part thereof, or out of any moneys, or investments representing moneys liable to be laid out in the purchase of hereditaments to be settled in the same manner as the settled estates, or out of the income of such moneys or investments, or out of any accumulations of rents, profits, or income; and the Court may also give such directions as it deems advisable for any repair or maintenance of any such streets, roads, paths, squares, gardens, or other open spaces, sewers, drains, or watercourses, or other works, out of any such rents, profits, income, or accumulations during such period or periods of time as the Court deems advisable, Provided that the powers hereby granted shall in every case be

How provision made for laying out streets, etc.
Imp. Act 40-41 V. c. 18, s. 21.

Rev. Stat., cc. 223, 138, 136. exercised subject to the provisions of *The Municipal Act*, *The Land Tiles Act*, and of *The Registry Act*. 58 V. c. 20, s. 20.

HOW SALES, MORTGAGES AND DEDICATIONS ARE TO BE
EFFECTED UNDER THE DIRECTIONS OF THE
COURT.

Directions as to execution of deeds.
Imp. Act
40-41 V. c. 18,
s. 22.

21. On every sale, mortgage or dedication to be effected as hereinbefore mentioned the Court may direct what person or persons shall execute the deed of conveyance or mortgage; and the deed or mortgage executed by such person or persons shall take effect as if the settlement had contained a power enabling such person or persons to effect such sale, mortgage or dedication, and so as to operate if necessary by way of revocation and appointment of the use or otherwise, as the Court directs. 58 V. c. 20, s. 21.

Who may apply for exercise of powers conferred by this Act.
Imp. Act
40-41 V. c. 18,
s. 23.

22. Any person entitled to the possession or to the receipt of the rents and profits of any settled estates for a term of years determinable on his death, or for an estate for life or any greater estate, and also any person entitled to the possession or to the receipt of the rents and profits of any settled estates as the assignee of any person, who, but for such assignment, would be entitled to such estates for a term of years determinable with any life, or for an estate for any life or any greater estate, may apply to the Court by petition in a summary way to exercise the powers conferred by this Act. 58 V. c. 20, s. 22.

With whose consent such application to be made.
Imp. Act
40-41 V. c. 18,
s. 24.

23. Subject to the exception hereinafter contained every application to the Court must be made with the concurrence or consent of the following parties, namely:

Where there is a tenant in tail under the settlement in existence and of full age, then the parties to concur or consent shall be such tenant in tail, or if there is more than one such tenant in tail, then the first of such tenants in tail, and all persons in existence having any beneficial estate or interest under or by virtue of the settlement prior to the estate of such tenant in tail, and all trustees having any estate or interest on behalf of any unborn child prior to the estate of such tenant in tail.

And in every other case the parties to concur or consent shall be all the persons in existence having any beneficial estate or interest under or by virtue of the settlement, and also all trustees having any estate or interest on behalf of any unborn child.
58 V. c. 20, s. 23.

Court may dispense with consent in respect of certain persons.
Imp. Act
40-41 V. c. 18,
s. 25.

24. Provided always, that where an infant or person of unsound mind not so found is tenant in tail or beneficially interested under the settlement, the Court may dispense with the concurrence or consent of such person. 58 V. c. 20, s. 24.

25. Provided always, that where on an application under this Act, the concurrence or consent of any such person as aforesaid shall not have been obtained, notice shall be given to such person in such manner as the Court shall direct, requiring him to notify within a time to be specified in such notice whether he assents to or dissents from such application, or submits his rights or interests, so far as they may be affected by such application, to be dealt with by the Court, and every such notice shall specify to whom and in what manner such notification is to be delivered or left. In case no notification shall be delivered or left in accordance with the notice and within the time thereby limited, the person to or for whom such notice shall have been given or left shall be deemed to have submitted his rights and interests to be dealt with by the Court. 58 V. c. 20, s. 25.

Notice to be given to persons who do not consent to, or concur in, the application.
Imp. Act 40-41 V. c. 18, s. 26.

26. Provided also, that where on an application under this Act, the concurrence or consent of any such person as aforesaid has not been obtained, and in case such person cannot be found, or in case it is uncertain whether he is living or dead, or in case it appears to the Court that such notice as aforesaid cannot be given to such person without expense disproportionate to the value of the subject matter of the application or the interest of such person therein, then and in any such case the Court, if it thinks fit, either on the ground of the rights or interests of such person being small or remote, or being similar to the rights or interests of any other person or persons, or on any other ground, may by order dispense with notice to such person, and such person shall thereupon be deemed to have submitted his rights and interests to be dealt with by the Court. 58 V. c. 20, s. 26.

Court may dispense with notice under certain circumstances.
Imp. Act 40-41 V. c. 18, s. 27.

27. An order may be made upon any application notwithstanding that the concurrence or consent of any such person as aforesaid has not been obtained or has been refused, but the Court, in considering the application, shall have regard to the number of persons who concur in or consent to the application, and who dissent therefrom or who submit or are to be deemed to submit their rights or interests to be dealt with by the Court, and to the estates or interests which such persons respectively have or claim to have in the estate as to which such application is made; and every order of the Court made upon such application shall have the same effect as if all such persons had been consenting parties thereto. 58 V. c. 20, s. 27.

Court may dispense with consent, having regard to the number and interests of the parties.
Imp. Act 40-41 V. c. 18, s. 28.

28. Provided nevertheless, that the Court may if it thinks fit, give effect to any petition subject to, and so as not to affect the rights, estate, or interest of any person whose concurrence or consent has been refused, or who has not submitted, or is not deemed to have submitted, his rights or interests to be dealt with by the Court, or whose rights, estate or interest ought in the opinion of the Court to be excepted. 58 V. c. 20, s. 28.

Petition may be granted without consent, saving rights of non-consenting parties.
Imp. Act 40-41 V. c. 18, s. 29.

Notice of application to be served on all trustees, etc, Imp. Act, 40-41 V. c. 18, s. 20.

29. Notice of any application to the Court under this Act shall be served on all trustees who are seized or possessed of any estate in trust for any person whose consent or concurrence to or in the application is hereby required, and on any other parties who in the opinion of the Court ought to be so served, unless the Court shall think fit to dispense with such notice. 58 V. c. 20, s. 29.

Notice of application to be given in the newspapers if Court directs. Imp. Act 40-41 V. c. 18, s. 31.

30. Notice of any application to the Court under this Act shall, if the Court so directs, but not otherwise, be inserted in such newspapers as the Court directs, and any person or body corporate, whether interested in the estate or not, may be heard in opposition to or in support of any application made to the Court under this Act; and the Court is hereby authorized to permit such person or corporation to appear and be heard in opposition to or in support of any such application on such terms as to costs or otherwise, and in such manner as it thinks fit. 58 V. c. 20, s. 30.

No application under this Act to be granted where a similar application has been rejected by Legislative Assembly. Imp. Act 40-41 V. c. 18, s. 32.

31. The Court shall not grant any application under this Act in any case where the applicant, or any party entitled, has previously applied to the Legislative Assembly of this Province for a private Act to effect the same or a similar object, and such application has been rejected on its merits, or was reported against by the Judges to whom the Bill was referred. 58 V. c. 20, s. 31.

Instruments executed under powers to be registered. Imp. Act 40-41 V. c. 18, s. 33.

32. Deeds, mortgages, leases and other instruments executed in pursuance of the exercise of any of the powers conferred by this Act shall not take effect until registered in the proper registry or land titles office where the lands are situate, and in the case of leases the lease or duplicate to be registered shall be executed by the lessee as well as the lessor. 58 V. c. 20, s. 32.

APPLICATION OF MONEYS ARISING FROM SALES, ETC.

Payment and application of moneys arising from sales or set aside out of rent, etc., reserved on mining leases. Imp. Act 40-41 V. c. 18, s. 34.

33. All money to be received on any sale effected under the authority of this Act, or to be set aside out of the rent or payments reserved on any lease of earth, coal, stone, or minerals as aforesaid, may, if the Court thinks fit, be paid to any trustees of whom it shall approve, or otherwise the same shall be paid into Court to the credit of the matter of this Act, and the estate (*shortly describing the same*); and such money shall be applied, as the Court shall, from time to time direct, to one or more of the following purposes, namely:

- (a) The payment of any costs which the Court may see fit to order to be paid; or
- (b) The discharge of any incumbrance affecting the hereditaments in respect of which such money was paid, or affecting any other hereditaments subject to the same uses or trusts; or

- (c) The purchase of other hereditaments to be settled in the same manner as the hereditaments in respect of which the money was paid; or
- (d) The payment of the expenses connected with any buildings, repairs, rebuildings, alterations or improvements authorized to be made upon the settled estates in question.
- (e) The payment to any person becoming absolutely entitled. 58 V. c. 20, s. 33.

34. The application of the money in manner aforesaid may, if the Court shall so direct, be made by the trustees (if any) to whom the Court has authorized the same to be paid, without any application to the Court; or upon an order of the Court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land. 58 V. c. 20, s. 34.

Trustees may apply money in certain cases without application to Court.
Imp. Act 40-41 V. c. 18, s. 35.

35. Until the money can be applied as aforesaid, the interest accruing thereon shall be paid, as the Court shall direct to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land. 58 V. c. 20, s. 35.

Orders of Court conclusive.
Imp. Act 40-41 V. c. 18, s. 36.

36. Where any purchase money paid into Court or to trustees under the provisions of this Act has been paid in respect of any lease for a life or lives or years, or for a life or lives and years, or any estate in lands less than the whole fee simple thereof, or of any reversion dependent on any such lease or estate, the Court may on the petition of any party interested in such money order that the interest which shall accrue thereon be paid in such manner as the Court considers will give to the parties interested in such money the same benefit therefrom as they might lawfully have had from the lease, estate, or reversion, in respect of which such money has been paid, or as near thereto as may be. 58 V. c. 20, s. 36.

Court may direct application of money in respect of leases or reversions as appears just.
Imp. Act 40-41 V. c. 18, s. 37.

COURT MAY EXERCISE POWERS REPEATEDLY, BUT MAY NOT EXERCISE THEM IF EXPRESSLY NEGATIVED.

37. The Court may exercise any of the powers conferred on it by this Act, whether the Court shall have already exercised any of the powers conferred by this Act in respect of the same property or not; but no such powers shall be exercised if any express declaration that they shall not be exercised is contained in the settlement; Provided always, that the circumstance of the settlement containing powers to effect similar purposes shall not preclude the Court from exercising any of the powers conferred by this Act, if it thinks that the powers contained in the settlement ought to be extended. 58 V. c. 20, s. 37.

Court may exercise powers repeatedly.
Imp. Act 40-41 V. c. 18, s. 38.

Court not to authorize any act which could not have been authorized by the settlor.

Imp. Act
40-41 V. c. 18,
s. 39.

38. Nothing in this Act shall be construed to empower the Court to authorize any lease, mortgage, sale, or other act beyond the extent to which, in the opinion of the Court, the same might have been authorized in and by the settlement by the settlor. 58 V. c. 20, s. 38.

ACTS AND ORDERS OF COURT CONCLUSIVE.

Acts of the Courts in the professed pursuance of this Act not to be invalidated.

Imp. Acts
40-41 V. c. 18,
s. 40; 40-45 V.
c. 41, s. 70;
57-58 V. c. 56,
Sched.

Orders of Court conclusive.

39. After the completion of any lease, mortgage, or sale, or other act under the authority of the Court, and purporting to be in pursuance of this Act, the same shall not be invalidated on the ground that the Court was not hereby empowered to authorize the same. 58 V. c. 20, s. 39.

40.—(1) An order of the Court under any statutory or other jurisdiction shall not, as against a purchaser, be invalidated on the ground of want of jurisdiction, or of want of any concurrence, consent, notice or service, whether the purchaser has notice of any such want or not.

Imp. Act
44-45 Vic.
c. 41, s. 70.

(2) This section shall have effect with respect to any lease, mortgage, sale or other act, under the authority of the Court, and purporting to be in pursuance of this Act, or to be in pursuance of any former Act repealed or amended by *The Settled Estates Act, 1895*, notwithstanding any exception in such former Act. 58 V. c. 20, s. 40.

58 V. c. 20.

COSTS.

Costs.

Imp. Act
40-41 V. c. 18,
s. 41.

41. The Court may if it thinks fit, order that any costs or expenses of any parties of and incident to any application under this Act, shall be a charge on the hereditaments which are the subject of the application, or on any other hereditaments included in the same settlement and subject to the same limitations, or may direct the same to be paid out of the corpus or income of any fund realized by the sale, mortgage or lease of such estate under the provisions of this Act, and the Court may also direct that such costs and expenses shall be raised by a sale or mortgage of a sufficient part of such hereditaments, or out of the rents or profits thereof, such costs and expenses to be taxed and paid as the Court directs. 58 V. c. 20, s. 41.

LEASES BY TENANTS FOR LIFE, ETC.

Tenants for life, etc., may grant leases for 21 years.

Imp. Act
40-41 V. c. 18,
s. 46

42.—(1) It shall be lawful for any person entitled to the possession or to the receipt of the rents and profits of any settled estate for an estate for any life, or for a term of years determinable with any life or lives, or for any greater estate, either in his own right or in right of his wife, (unless the settlement shall contain an express declaration that it shall not be lawful for such person to make such demise); and also

for any person entitled to the possession or to the receipt of the rents and profits of any unsettled estates as tenant by the curtesy or in dower, or in right of a wife who is seised in fee, without any application to the Court (subject to the exception hereinafter mentioned), to demise the same or any part thereof, from time to time, for any term not exceeding twenty-one years, to take effect in possession, at or within one year next after the making thereof; Provided that every such demise be made by deed, and the best rent that can be reasonably obtained be thereby reserved without any fine or other benefit in the nature of a fine, which rent shall be incident to the immediate reversion, and shall be made payable half-yearly, or oftener; and provided that such demise is not made without impeachment of waste and does not authorize the cutting of any timber or felling of any trees except in the ordinary course of husbandry, and contains a covenant (by the lessee) for payment of the rent, and such other usual and proper covenants as the lessor shall think fit, together with a covenant or condition for re-entry on non-payment of rent for a period of twenty-eight days after it becomes due or for some less period to be specified.

(2) A tenant for life or owner entitled as in subsection 1 may also make:—

- (a) A lease for giving effect to a contract entered into by any of his predecessors in title for making a lease, which, if made by the predecessor, would have been binding on the successors in title; and
- (b) A lease for giving effect to a covenant of renewal, performance whereof could be enforced against the owner for the time being of the settled land; and
- (c) A lease for confirming, as far as may be, a previous lease, being void or voidable; but so that every lease, as and when confirmed, shall be such a lease as might at the date of the original lease have been lawfully granted under this Act, or otherwise as the case may require.

(3) Every lease made under this section shall be by deed in duplicate and shall be executed by the lessor and lessee and shall be subject to the provisions of section 32 of this Act.

(4) Where two or more persons are under the same settlement or otherwise entitled in possession to concurrent estates for life, or are concurrently entitled to the possession or receipt of the rents and profits as in subsection 1 mentioned, they shall, for the purposes of this section, act concurrently. 58 V. c. 20, s. 42.

43. Every demise authorized by the last preceding section shall be valid against the person granting the same, and all other persons entitled to estates subsequent to the estate of such person under or by virtue of the same settlement if the estates be settled, and in the case of unsettled estates against the wife of any husband granting such demise of estates to

Against whom
leases shall be
valid.
Imp. Act
40-41 V. c. 18,
s. 47.

which he is entitled in right of such wife, and against all persons claiming through or under the wife or husband (as the case may be) of the person granting the same. 58 V. c. 20, s. 43.

PROVISIONS AS TO APPLICATIONS, CONSENTS, ETC.

Provisions as to infants, lunatics, etc. Imp. Act, 40-41 V. c. 18, s. 49.

44. All powers given by this Act, and all applications to the Court under this Act, and consents to and notifications respecting such applications may be executed, made, or given by, and all notices under this Act may be given to committees on behalf of lunatics, and by or to trustees or assignees of the property of bankrupts, debtors in liquidation or insolvents; and the Official Guardian *ad litem*, or any other guardian *ad litem* appointed by the Court may consent to, and give notifications respecting such applications, and give all notices under this Act on behalf of any infant or person of unsound mind not so found; provided, nevertheless, that in the cases of infants or lunatics, or persons of unsound mind not so found, all consents to or notifications or notices respecting any application so given by any committee or official guardian or other guardian *ad litem* appointed by the Court shall be subject to the approbation of the Court. 58 V. c. 20, s. 44.

Application by or consent of married women. Imp. Act, 40-41 V. c. 18, s. 52.

45. Married women may make or consent to or oppose any applications whether they be infants or of full age. 58 V. c. 20, s. 45.

No obligation to make or consent to application. Imp. Act, 40-41 V. c. 18, s. 53.

46. Nothing in this Act shall be construed to create any obligation on any person to make or consent to any application to the Court or to exercise any power. 58 V. c. 20, s. 46.

Tenants for life, etc., to be deemed entitled notwithstanding incumbrances. Imp. Act, 40-41 V. c. 18, s. 54.

47. For the purposes of this Act a person shall be deemed to be entitled to the possession or to the receipt of the rents and profits of estates although his estate may be charged or encumbered either by himself or by the settlor, or otherwise howsoever, to any extent; but the estates or interests of the parties entitled to any such charge or incumbrance shall not be affected by the acts of the person entitled to the possession or to the receipt of the rents and profits as aforesaid unless they shall concur therein. 58 V. c. 20, s. 47.

To what matters this Act to extend. Imp. Act, 40-41 V. c. 18, s. 57.

48. This Act shall, except as hereinafter provided, apply to all matters existing on the 16th day of April, 1895, whether proceedings were then actually pending or not, and any proceeding in any such matter still pending may be continued or taken under this Act as if the matter originated under this Act. 58 V. c. 20, s. 48.

Powers conferred by other Acts.

49. Nothing in this Act shall interfere with the exercise of any powers to authorize or grant leases conferred by any other Statute. 58 V. c. 20, s. 51.

CHAPTER 72.

An Act respecting the Limitation of certain actions.

LIMITATION OF ACTIONS—	
For rent upon a demise, s. 1 (a).	Upon covenants in mortgages, s. 1 (h).
On specialties, s. 1 (b).	Of account or between merchants, s. 2.
On recognizances, s. 1 (c).	DISABILITIES, s. 3.
On awards, s. 1 (d).	NO DISTINCTION BETWEEN RESIDENTS AND NON-RESIDENTS, ss. 4, 5.
For escape, s. 1 (e).	CASES OF ACTIONS AGAINST JOINT DEBTORS, ss. 6, 7.
For money levied under execution, s. 1 (f).	EFFECT OF ACKNOWLEDGMENTS, s. 8.
For penalties, etc., s. 1 (g).	LIMITATION IN INTESTACY, s. 9.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1.—(1) The actions hereinafter mentioned shall be commenced within and not after the times respectively hereinafter mentioned, that is to say :

Limitation of time for commencing particular actions.

- (a) Actions for rent, upon an indenture of demise,
R. S. O. 1887, c. 60, s. 1 (1a).
- (b) Actions upon a bond, or other specialty, except upon the covenants contained in any indenture of mortgage made on or after the 1st day of July, 1894.
R. S. O. 1887, c. 60, s. 1 (1b) ; 56 V. c. 17, s. 1, part ; 60 V. c. 3, s. 3.
- (c) Actions upon a recognizance,
within twenty years after the cause of such actions arose ;
- (d) Actions upon an award where the submission is not by specialty,
- (e) Actions for an escape,
- (f) Actions for money levied on execution,
within six years after the cause of such actions arose ;
- (g) Actions for penalties, damages, or sums of money given to the party aggrieved, by any statute,

within two years after the cause of such actions arose; R. S. O. 1887, c. 60, s. 1. (1, c—g).

(h) Actions upon any covenant contained in any indenture of mortgage, made on or after the 1st day of July, 1894, within ten years after the cause of such actions arose. 56 V. c. 17, s. 1, part.

Where time specially limited.

(2) But nothing herein contained shall extend to any action given by any statute, when the time for bringing the action is by the statute specially limited. R. S. O. 1887, c. 60, s. 1 (2).

Actions of account, etc., to be commenced within six years.

2. All actions of account or for not accounting, or for such accounts as concern the trade of merchandise between merchant and merchant, their factors and servants, shall be commenced within six years after the cause of such actions arose; and no claim in respect of a matter which arose more than six years before the commencement of the action, shall be enforceable by action by reason only of some other matter of claim comprised in the same account, having arisen within six years next before the commencement of the action. R. S. O. 1887, c. 60, s. 2.

In case of disability of plaintiff.

3. In case a person entitled to such action, as aforesaid, is at the time of the cause of action accruing within the age of twenty-one years, or *non compos mentis*, then such person may bring the action, within such time after coming to or being of full age, or of sound memory, as other persons having no such impediment should, according to the provisions of this Act, have done. R. S. O. 1887, c. 60, s. 3.

Non-resident Plaintiffs.

4. A plaintiff who is resident out of Ontario shall have no longer period of time to commence an action than if he were resident in Ontario when the cause of action or proceeding first accrued. R. S. O. 1887, c. 60, s. 4.

Non-resident defendants.

5. If a person against whom any such cause of action accrues, is at such time out of Ontario, the person entitled to the cause of action may bring the action within such times as are before limited after the return of the absent person to Ontario. R. S. O. 1887, c. 60, s. 5.

As to cases where some joint debtors have been within and some without Ontario.

6. Where a cause of action, with respect to which the period of limitation is fixed by the Imperial Act of the 21st year of the Reign of King James the First, chapter 16, section 3, or by any Act now in force in Ontario, lies against joint debtors, the person entitled to the same shall not be entitled to any time within which to commence such action against any one of the joint debtors who was within Ontario at the time the cause of action accrued, by reason only that some other of the joint debtors was, at the time the cause of action accrued, out of Ontario. R. S. O. 1887, c. 60, s. 6.

7. The person so entitled shall not be barred from commencing an action against the joint debtor who was out of Ontario at the time the cause of action accrued, after his return to Ontario, by reason only that judgment has been already recovered against the joint debtor who was within Ontario at the time aforesaid. R. S. O. 1887, c. 60, s. 7.

Recovery against one joint debtor no bar to action against another who is absent.

8. In case an acknowledgment in writing, signed by the principal party or his agent, is made by a person liable upon an indenture, specialty or recognizance, or in case an acknowledgment is made by such person by part payment, or part satisfaction, on account of any principal or interest due on such indenture, specialty or recognizance, the person entitled may bring an action for the money remaining unpaid and so acknowledged to be due, within twenty years, or in the cases mentioned in clause (h) of subsection 1 of section 1 within ten years, after such acknowledgment by writing, or part payment, or part satisfaction, as aforesaid; or in case the person entitled is at the time of the acknowledgment under disability, as aforesaid, or the party making the acknowledgment is, at the time of making the same out of Ontario, then within twenty years, or in the cases aforesaid within ten years, after the disability has ceased, as aforesaid, or the party has returned, as the case may be. R. S. O. 1887, c. 60, s. 8; 60 V. c. 3, s. 3.

Effect of written acknowledgment or part payment.

9. No action or other proceeding shall be brought to recover the personal estate, or any share of the personal estate of a person dying intestate, possessed by the legal personal representative of such intestate, but within twenty years next after a present right to receive the same accrued to some person capable of giving a discharge for or release of the same, unless in the meantime some part of the estate or share, or some interest in respect thereof has been accounted for or paid, or some acknowledgment of the right thereto has been given in writing, signed by the person accountable for the same, or his agent, to the person entitled thereto, or his agent; and in such case, no action shall be brought but within twenty years after such accounting, payment or acknowledgment, or the last of such accountings, payments or acknowledgments, if more than one, was made or given. R. S. O. 1887, c. 60, s. 9.

An action to recover personal estate of an intestate or any part thereof, must be brought within twenty years. Imp. Act, 23 and 24 V. c. 38, s. 13.

CHAPTER 73.

An Act respecting Witnesses and Evidence.

SHORT TITLE, s. 1.

COMPETENCY OF WITNESSES :

Crime or interest, ss. 2, 3.

Husband and wife, ss. 4, 7, 8, 9.

Evidence of parties, ss. 4, 6, 7.

Criminating questions, s. 5.

In prosecutions under Ontario Acts, etc., s. 9.

CORROBORATIVE EVIDENCE :

In actions for breach of promise, s. 6.

In cases against representatives of deceased persons, s. 10.

In cases against lunatics, s. 11.

AFFIRMATIONS, ss. 12-15.

ATTENDANCE OF WITNESSES :

A party to an action may summon opposite party as a witness, s. 16.

Subpenas to the province of Quebec. C. S. C. c. 79, ss. 4-13, p. 714.

EXAMINATION OF WITNESSES :

Proof of previous contradictory statements in writing s. 17.

Proof of previous contradictory oral statements, s. 18.

Proof of previous conviction, s. 19.

Discrediting a party's own witness, s. 20.

STATUTES, PUBLIC DOCUMENTS, ETC., AS EVIDENCE :

Statutes, proclamations, etc., 21-24.

Official documents, ss. 25-29.

Signatures of Judges, etc., s. 30.

Foreign Judgments, s. 31.

Notarial documents made in Quebec, ss. 32, 33.

Protests of Bills and Notes, ss. 34, 35.

Sheriff's Conveyance on Division Court judgment, s. 36.

Affidavits made out of Ontario, ss. 37, 38.

Formal defects in Affidavits, s. 39.

Depositions, s. 40.

Wills, ss. 41-44.

Registered instruments, ss. 45-49.

Instruments in Land Titles Offices, s. 50.

Other written instruments, s. 51.

Compelling attendance of witnesses for purpose of foreign commission, s. 52.

EVIDENCE WHEN PERSON RESIDENT IN GREAT BRITAIN IS A PARTY, s. 53.

WHEN PROOF BY ATTESTING WITNESSES UNNECESSARY, s. 54.

COMPARISON OF HANDWRITING, s. 55.

IMPOUNDING INSTRUMENTS OFFERED IN EVIDENCE, s. 56.

POWERS CONFERRED BY ACT ARE IN ADDITION TO ANY OTHER EXISTING POWERS, s. 57.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Evidence Act.*" R. S. O., 1887, c. 61, s. 1.

COMPETENCY OF WITNESSES.

Witnesses not to be incapacitated by crime or interest.

2. No person offered as a witness shall hereafter be excluded by reason of any alleged incapacity from crime or interest

from giving evidence, according to the practice of the Court, on the trial of any action, issue, matter or proceeding, in any Court of Ontario, or before any person having, by law or by consent of parties, authority to hear, receive and examine evidence. R. S. O. 1887, c. 61, s. 2.

3. Every person so offered shall be admitted to give evidence notwithstanding that such person has an interest in the matter in question, or in the event of the trial of any issue, matter, question or inquiry, or of the action or proceeding in which he is offered as a witness, and notwithstanding that such person has been previously convicted of any crime or offence. R. S. O. 1887, c. 61, s. 3. Such persons admitted to give evidence.

4. On the trial of any action, issue, matter or proceeding in any Court in this Province, or before any person having, by law or by consent of parties, authority to hear, receive and examine evidence, the parties to the proceedings, and the persons in whose behalf the action or other proceeding, is brought or instituted, or opposed, or defended, shall, except as hereinafter excepted, be competent and compellable to give evidence, according to the practice of the Court, on behalf of themselves or of either or any of the parties to the action or proceeding; and the husbands and wives of such parties and persons shall, except as hereinafter excepted, be competent and compellable to give evidence, according to the practice of the Court, on behalf of either or any of the parties to the action or proceeding. R. S. O. 1887, c. 61, s. 4. Evidence of parties.

Evidence of husband and wife.

5. Subject to section 9 of this Act, nothing herein contained shall render any person compellable to answer any question tending to subject him to criminal proceedings or to subject him to prosecution for any penalty. 59 V. c. 18, s. 6. Questions tending to criminate witnesses.

6. The parties to an action for breach of promise of marriage shall be competent to give evidence in the action: Provided always that no plaintiff in an action for breach of promise of marriage shall recover a verdict unless his or her testimony is corroborated by some other material evidence in support of the promise. R. S. O. 1887, c. 61, s. 6. Evidence in actions for breach of promise.

7. The parties to a proceeding instituted in consequence of adultery, and the husbands and wives of such parties, shall be competent to give evidence in the proceeding: Provided that in such case the husband or wife, if competent only under and by virtue of this Act, shall not be liable to be asked or bound to answer any question tending to shew that he or she has been guilty of adultery, unless he or she shall have already given evidence in the same proceeding in disproof of his or her alleged adultery. R. S. O. 1887, c. 61, s. 7. Evidence in proceedings in consequence of adultery.

Communica-
tions made
during mar-
riage.

8. No husband shall be compellable to disclose any communication made by his wife during the marriage, and no wife shall be compellable to disclose any communication made to her by her husband during the marriage. R. S. O. 1887, c. 61, s. 8.

Evidence of
parties and
wives and
husbands.

9. On the trial of any proceeding, matter or question, under any Act of the Legislature of Ontario, or on the trial of any such proceeding, matter or question, before any Justice of the Peace, Mayor or Police Magistrate, in any matter cognizable by such Justice, Mayor, or Police Magistrate, the party opposing or defending, or the wife or husband of the person opposing or defending shall be competent and compellable to give evidence therein. 55 V. c. 14, s. 1.

In actions by or
against repre-
sentatives of a
deceased
person, the
evidence of the
opposite party
must be cor-
roborated.

10. In any action or proceeding by or against the heirs, executors, administrators, or assigns of a deceased person, an opposite or interested party to the action shall not obtain a verdict, judgment, or decision therein, on his own evidence, in respect of any matter occurring before the death of the deceased person, unless such evidence is corroborated by some other material evidence. R. S. O. 1887, c. 61, s. 10.

In actions by or
against luna-
tics, etc., evi-
dence of oppo-
site party to be
corroborated.

11. In any action or proceeding by or against a person found by inquisition to be of unsound mind, or being an inmate of a lunatic asylum, an opposite or interested party shall not obtain a verdict, judgment, or decision therein, on his own evidence, unless such evidence is corroborated by some other material evidence. R. S. O. 1887, c. 61, s. 11.

AFFIRMATIONS.

Quakers,
Menonists,
Tunkers, etc.,
permitted to
make affirma-
tion.

12. In any case in which an oath, declaration or affirmation is required by law, or upon any lawful occasion whatever on which the oath of any person is by law admissible, a Quaker, Mennonist or Tunker, or a member of the church known as the "Unitas Fratrum," or the United Brethren, sometimes called the Moravian Church, having first made the following declaration or affirmation, viz.:

"I, A. B., do solemnly, sincerely and truly declare and affirm that I am one of the Society called Quakers, Mennonists, Tunkers or Unitas Fratrum, or Moravians" (*as the case may be*);

may make his affirmation or declaration in the form following, that is to say:

"I, A. B., do solemnly, sincerely and truly affirm and declare," etc.;

and such affirmation or declaration shall have the same force and effect to all intents and purposes, in all Courts and all other places, as an oath taken in the usual form. R. S. O. 1887, c. 61, s. 12.

13. If a person called as a witness, or required or desiring to make an affidavit or deposition in a proceeding, or on an occasion whereon or touching a matter respecting which an oath is required, whether on taking office or otherwise, refuses or is unwilling, from alleged conscientious motives, to be sworn, the Court or Judge, or other presiding officer, or person qualified to take affidavits or depositions, may permit such person, instead of being sworn, to make his or her solemn affirmation or declaration in the words following, viz. :

Certain persons may make affirmation or declaration instead of oath.

"I, A. B., do solemnly, sincerely and truly affirm and declare that the taking of an oath is, according to my religious belief, unlawful ; and I do also solemnly, sincerely and truly affirm and declare," etc. :

which solemn affirmation and declaration shall be of the same force and effect as if such person had taken an oath in the usual form. R. S. O. 1887, c. 61, s. 13.

14.—(1) If in a Court of justice, a person called to give evidence objects to take an oath, or is objected to as incompetent to take an oath, such person shall, if the presiding Judge is satisfied that the taking of an oath would have no binding effect on his conscience, make the following promise, affirmation, and declaration :

Persons who object or are incompetent to take an oath to be allowed to make a declaration.

"I solemnly promise, affirm, and declare that the evidence given by me to the court shall be the truth, the whole truth, and nothing but the truth."

and upon the person making such solemn affirmation and declaration, his evidence shall be taken in the said proceeding.

(2) The words "Court of justice" and the words "presiding Judge" in this section shall be deemed to include any person having by law authority to administer an oath for the taking of evidence. R. S. O. 1887, c. 61, s. 14.

Interpretation.

15. Every person authorized or required to administer an oath for any purpose, may administer any affirmation or declaration aforesaid. R. S. O. 1887, c. 61, s. 15.

Persons authorized to administer oaths may administer affirmation.

SUBPŒNAS.

16. Where a party in an action desires to call the opposite party as a witness at the trial, he shall either subpoena such party or give to him or his solicitor at least eight days' notice of the intention to examine him as a witness in the cause, and if such party does not attend on the notice or subpoena, his non-attendance shall be taken as an admission *pro confesso* against him in the action, unless otherwise ordered by the Judge and a general finding or judgment may be had against the party thereon or the plaintiff may be non-suited, or the proceedings in the action may be postponed by the Judge, on such terms as he sees fit to impose. R. S. O. 1887, c. 61, s. 16.

A party to any action may be summoned as a witness by the opposite party, and consequences of non-attendance.

ISSUE OF SUBPŒNAS INTO ANY PART OF ONTARIO OR QUEBEC.

[Sections 4-11 and 13 of C. S. C. c. 79 are not consolidated in the Revised Statutes of Canada and are as follows:]

Courts may issue subpoenas to any part of Canada.

4. If in any action or suit depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it appears to the Court, or when not sitting, it appears to any Judge of the Court, that it is proper to compel the personal attendance at any trial, or *enquête* or examination of witnesses, of any person who may not be within the jurisdiction of the Court in which the action or suit is pending, the Court or Judge, in their or his discretion, may order that a writ called a writ of *subpœna ad testificandum* or of *subpœna duces tecum* shall issue in special form, commanding such person to attend as a witness at such trial or *enquête* or examination of witnesses wherever he may be in Canada.

Service thereof in any part of Canada to be good.

5. The service of any such writ or process in any part of Canada shall be as valid and effectual, to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it has issued, according to the practice of such Court.

When not to be issued.

6. No such writ shall be issued in any case in which an action is pending for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside.

Writs to be specially noted.

7. Every such writ shall have at the foot, or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order and no such writ shall issue without such special order.

Consequences of disobedience.

8. In case any person so served does not appear according to the exigency of such writ or process, the Court out of which the same issued may, upon proof made of the service thereof, and of such default, to the satisfaction of such Court, transmit a certificate of such default, under the seal of the same Court, to any of Her Majesty's Superior Courts of Law or Equity in that part of Canada in which the person so served may reside, being out of the jurisdiction of the Court transmitting such certificate, and the Court to which such certificate is sent, shall thereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear to a writ of subpoena or other similar process issued out of such last mentioned Court.

If expenses paid or tendered.

9. No such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such subpoena or other similar process, unless it be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate *per diem* and per mile allowed to witnesses by the law and practice of the Superior Courts of Law within the jurisdiction of which such person was found, to defray the expenses of coming and attending to give evidence and of returning from giving evidence, had been tendered to such person at the time when the writ of subpoena, or other similar process, was served upon him.

How service proved.

10. The service of such writs of subpoena or other similar process in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service has been made, under his oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person who served the same.

Costs of attendance provided for.

11. The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have

been allowed on a commission *rogatoire*, or to examine witnesses, unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, so orders.

13. Nothing herein contained shall affect the power of any Court to issue a commission for the examination of witnesses out of its jurisdiction, nor affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable, on the ground of any witness being beyond the jurisdiction of the Court.

Power to issue commissions to examine witnesses preserved.

EXAMINATION OF WITNESSES.

17. Upon the trial of any cause a witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without the writing being shewn to him; but if it is intended to contradict the witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him; and the Judge at any time during the trial, may require the production of the writing for his inspection, and he may thereupon make such use of it for the purposes of the trial as he thinks fit. R. S. O. 1887, c. 61, s. 17.

Proof of contradictory written statements.

18. If a witness upon cross-examination as to a former statement made by him relative to the subject matter of the cause, and inconsistent with his present testimony, does not distinctly admit that he did make such statement, proof may be given that he did in fact make it; but before such proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement. R. S. O. 1887, c. 61, s. 18.

Proof of contradictory oral statements.

19.—(1) A witness may be questioned as to whether he has been convicted of any crime, and upon being so questioned, if he either denies the fact or refuses to answer, the opposite party may prove the conviction; and a certificate containing the substance and effect only (omitting the formal part) of the indictment and conviction for the offence, purporting to be signed by the clerk of the Court or other officer having the custody of the records of the Court at which the offender was convicted, or by the deputy of the clerk or officer, shall, upon proof of the identity of the witness as such convict, be sufficient evidence of his conviction, without proof of the signature or of the official character of the person appearing to have signed the certificate.

Proof of previous conviction of a witness may be given if he denies it, etc.

Certificate of conviction.

(2) For such certificate a fee of \$1 and no more may be demanded or taken. R. S. O. 1887, c. 61, s. 19.

Fee for.

20. A party producing a witness shall not be allowed to impeach his credit by general evidence of bad character, but

How far a party may discredit his own witness.

in case the witness, in the opinion of the Judge, proves adverse, such party may contradict him by other evidence, or, by leave of the Judge, may prove that the witness made at other times a statement inconsistent with his present testimony; but before such last mentioned proof can be given, the circumstances of the supposed statement, sufficient to designate the particular occasion, must be mentioned to the witness, and he must be asked whether or not he did make such statement. R. S. O. 1887, c. 61, s. 20.

STATUTES AND PUBLIC DOCUMENTS.

Statutes, Proclamations and Orders in Council, etc.

Copies of
Canadian and
Provincial
Statutes as
evidence.

21. In any proceeding in respect of which the Legislature of Ontario has jurisdiction in this behalf, whenever it becomes necessary or expedient to prove or give in evidence, any statute or ordinance of Canada or of this Province, or of any other Province, or of any Territory in Canada, or of the late Province of Canada, or of any other Province in British North America whether such statute or ordinance was passed before or after the passing of *The British North America Act, 1867*, any copy of any such statute or ordinance purporting to be printed and published by the Queen's Printer for the Dominion or for such Province or Territory, or by the Government Printer for such Province or Territory, shall be receivable and received in evidence to prove the contents thereof in every Court or tribunal having cognizance of such proceeding. 60 V. c. 17, s. 1.

Proclama-
tions, Orders
in Council,
etc., of Gov-
ernment of
Canada, how
proved.

22. *Prima facie* evidence of any proclamation, order, regulation or appointment made or issued by the Governor-General or by the Governor in Council or other chief executive officer or Administrator for the time being of the Government of Canada, or by or under the authority of any Minister or head of any department of the Government of Canada may be given in every Court or tribunal, and in all legal proceedings whatsoever, in respect of which the Legislature of this Province has authority to enact this provision, in any of the modes herein-after mentioned, that is to say:

- (a) By the production of a copy of the *Canada Gazette*, or of a volume of the Acts of the Parliament of Canada purporting to contain a notice of such proclamation, order, regulation or appointment;
- (b) By the production of a copy of such proclamation, order, regulation or appointment, purporting to be printed by the Queen's Printer for Canada; or,
- (c) By the production, in the case of any proclamation, order, regulation or appointment made or issued by the Governor-General or by the Governor in Council, or other chief executive officer or Adminis-

trator as aforesaid, of a copy or extract purporting to be certified to be a true copy by the clerk or assistant or acting clerk of the Queen's Privy Council for Canada, and in the case of any order, regulation or appointment made or issued by or under the authority of any such Minister or head of a department, by the production of a copy or extract purporting to be certified as true by the Minister or by his deputy or acting deputy, or by the secretary or acting secretary of the department over which he presides. 60 V. c. 17, s. 2.

23. *Prima facie* evidence of any proclamation, order, regulation or appointment made or issued by a Lieutenant-Governor or Lieutenant-Governor in Council of this or any other Province of Canada, or of any Territory of Canada, or other chief executive officer or Administrator for the time being of the Government of the Province or Territory, or by or under the authority of any member of the Executive Council, being the head of any department of the Government of the Province or Territory may be given in every Court or tribunal and in all legal proceedings in respect of which the Legislature of this Province has authority to enact this provision in any of the modes hereinafter mentioned, that is to say:

Proclamations, Orders in Council, etc., of Provincial Governments, how proved.

(a) By the production of a copy of the official Gazette for the Province or Territory purporting to contain a notice of such proclamation, order, regulation or appointment;

(b) By the production of a copy of such proclamation, order, regulation or appointment purporting to be printed by the Queen's Printer or the Government Printer for the Province or Territory; or

(c) By the production of a copy or extract of such proclamation, order, regulation or appointment certified to be a true copy by the clerk or assistant or acting clerk of the Executive Council, or by the head of any department of the Provincial Government or Territorial Government, or by his deputy or acting deputy, as the case may be. 60 V. c. 17, s. 3

24. Any order in writing, signed by the Secretary of State of Canada, and purporting to be written by command of the Governor-General, shall be received in evidence as the order of the Governor-General; and any order in writing signed by the Provincial Secretary, and purporting to be written by command of the Lieutenant-Governor, shall be received in evidence as the order of the Lieutenant-Governor. R. S. O. 1887, c. 20, s. 7, part; 60 V. c. 17, s. 5.

Orders signed by Secretary of State or Provincial Secretary.

Official Documents.

Notices in
Gazette.

25. All copies of official and other notices, advertisements and documents printed in the *Canada Gazette* or in the *Ontario Gazette* shall be *prima facie* evidence of the originals, and of the contents thereof. See R.S.C. 1886, c. 139, s. 7; 60 V. c. 17, s. 6.

How public or
official docu-
ments proved.

26. In every case in which the original record could be received in evidence, a copy of any official or public document in this Province, purporting to be certified under the hand of the proper officer, or person in whose custody such official or public document is placed, or a copy of a document, by-law, rule, regulation or proceeding, or a copy of any entry in any register or other book of any corporation, created by charter or statute in this Province, purporting to be certified under the seal of the corporation, and the hand of the presiding officer or secretary thereof, shall be receivable in evidence without proof of the seal of the corporation, or of the signature or of the official character of the person or persons appearing to have signed the same, and without further proof thereof. R. S. O. 1887, c. 61, s. 23.

By-laws, etc.,
of corpora-
tions.

Privilege in
case of official
documents.

27. Where documents are in the official possession, custody or power of a member of the Executive Council, or the head of a Department of the Public Service of this Province, if the deputy head or other officer of the Department has the documents in his personal possession, and is called as a witness, he shall be entitled, acting herein by the direction and on behalf of such member of the Executive Council or head of the Department, to object to produce the documents on the ground that they are privileged; and such objection may be taken by him in the same manner, and shall have the same effect, as if such member of the Executive Council or head of the Department were personally present and made the objection. R. S. O. 1887 c. 61, s. 24.

Entries in
departmental
books to be
prima facie
evidence.

28. In every Court or tribunal, and in all legal proceedings in respect of which the Legislature of this Province has authority so to enact, a copy of any entry in any book of account kept in any department of the Government of Canada or of this Province, shall be received as *prima facie* evidence of such entry, and of the matters, transactions and accounts therein recorded, if it is proved by the oath or affidavit of an officer of such department that such book was, at the time of the making of the entry, one of the ordinary books kept in such department, that the entry was apparently, and as the deponent believes, made in the usual and ordinary course of business of such department, and that such copy is a true copy thereof. 60 V. c. 17, s. 7. See R.S.C. 1886, c. 139, s. 8.

Copies of pub-
lic books or
documents ad-
missible in
evidence.

29—(1) Where a book or other document is of so public a nature as to be admissible in evidence on its mere pro

duction from the proper custody, a copy thereof or extract therefrom shall be admissible in evidence in any Court of justice, or before a person having by law or by consent of parties, authority to hear, receive and examine evidence, provided it is proved that it is an examined copy or extract, or that it purports to be signed and certified as a true copy or extract by the officer to whose custody the original has been entrusted.

(2) Such officer shall furnish such certified copy or extract to any person applying for the same at a reasonable time, upon his paying therefor a sum not exceeding ten cents for every folio of one hundred words. R. S. O. 1887, c. 61, s. 25.

Copies to be delivered if required.

[As to documents in Crown Lands Department see Cap. 28, sec. 47.]

Signatures of Judges, etc.

30. All Courts, Judges, Justices, Masters, Clerks of Courts Commissioners judicially acting, and other judicial officers in this Province, shall take judicial notice of the signature of any of the Judges of the Supreme Court of Canada, the Court of Appeal, the High Court of Justice, the County Courts of Ontario, or the Superior or Circuit Courts in Quebec, where such signature is appended or attached to any decree, order, certificate, affidavit, or judicial or official document, and no proof shall be required of the handwriting or official position of any person certifying in pursuance of this Act to the truth of any copy of or extract from any proclamation, order, regulation or appointment; and any such copy or extract may be in print or in writing, or partly in print and partly in writing. R. S. O. 1887, c. 61, s. 27; 60 V. c. 17, s. 4.

Judicial notice to be taken of signatures of Judges, etc.

Foreign Judgments.

31. Any judgment, decree or other judicial proceeding recovered, made, had or taken in the Supreme Court of Judicature in England or Ireland or in any of the Superior Courts of Law, Equity or Bankruptcy in Scotland, or in any Court of Record in any of the Provinces of Canada, or in any British Colony or Possession, or in any Court of Record of the United States or of any State of the United States of America, may be proved in any action or proceeding in Ontario, in which proof of such judgment, decree or judicial proceeding may be necessary or required, by an exemplification of the same under the seal of the Court without any proof of the authenticity of such seal or other proof whatever, in the same manner as any judgment, decree, or similar judicial proceeding of the High Court in Ontario may be proved by an exemplification thereof in any judicial or other proceeding in the said Court. R. S. O. 1887, c. 61, s. 28.

Foreign judgments, etc., how proved.

Notarial Documents.

32. A copy of a notarial act or instrument in writing made in Quebec, before a Notary, filed, enrolled or enregistered by

Copies of notarial acts in Quebec admissible.

such Notary, and certified by a Notary or Prothonotary to be a true copy of the original thereby certified to be in his possession as such Notary or Prothonotary, shall be receivable in evidence in any judicial or other proceeding in Ontario in the place and stead of the original, and shall have the same force and effect as the original would have if produced and proved. R. S. O. 1887, c. 61, s. 29.

How impeached.

33. Such certified copy may be rebutted or set aside by proof that there is no such original, or that the copy is not a true copy of the original in some material particular, or that the original is not an instrument of such nature as may, by the law of Quebec, be taken before a Notary, or be filed, enrolled or unregistered by a Notary in Quebec. R. S. O. 1887, c. 61, s. 30.

Protests of Bills and Notes.

Protests *prima facie* evidence.

34. All protests of bills of exchange and promissory notes shall be received in all Courts as *prima facie* evidence of the allegations and facts therein contained: and the production of a protest wherever made of a promissory note or bill of exchange, under the hand or seal of one or more Notaries Public, in any Court in Ontario, shall be *prima facie* evidence of the making of such protest. R. S. O. 1887, c. 61, ss. 31, 33; 60 V. c. 15, Sched. A (19).

Production of protest to be *prima facie* evidence that protest was made.

Certain certificates of notaries to be *prima facie* evidence.

35. Any note, memorandum or certificate at any time made by one or more Notaries Public in Canada, in his own handwriting or signed by him at the foot of or embodied in any protest, or in a regular register of official acts kept by him shall be *prima facie* evidence in Ontario of the fact of notice of non-acceptance or non-payment of a promissory note or bill of exchange having been sent or delivered, at the time and in the manner stated in such note, certificate or memorandum. R. S. O. 1887, c. 61, s. 32.; 60 V. c. 15. Sched. A (18).

Sheriff's Conveyance on Division Court Judgment.

Proving titles under Division Court executions.

36. In proving title under a Sheriff's conveyance based upon an execution issued from a Division Court it shall be sufficient to prove the judgment recovered in the Division Court without proof of any prior proceedings. 57 V. c. 26, s. 4.

Affidavits, etc., made out of Ontario.

Affidavits to be used in Ontario may be made before certain functionaries in other countries.

37. Oaths, affidavits, affirmations or declarations administered, sworn, affirmed or made out of the Province of Ontario, before some one of the following persons:

A Commissioner authorized to administer oaths in the Supreme Court of Judicature in England or Ireland;

A Judge of the Supreme Court of Judicature in England or Ireland;

A Judge of the Court of Session or the Justiciary Court in Scotland;

A Judge of any of the County Courts of Great Britain or Ireland, within his County;

A Notary Public and certified under his hand and official seal;

The Mayor or Chief Magistrate of any City, Borough or Town corporate, in Great Britain or Ireland, or in any Colony of Her Majesty, or in any foreign country, and certified under the common seal of such City, Borough, or Town corporate;

A Judge of any Court of Record or of supreme jurisdiction in any Colony belonging to the Crown of Great Britain, or any dependency thereof, or in any foreign country;

Or, if made in the British Possessions in India, before any Magistrate or Collector certified to have been such under the hand of the Governor of such Possession;

Or, if made in Quebec, before a Judge or Prothonotary of the Superior Court or Clerk of the Circuit Court;

Or before any Consul, Vice-Consul, or Consular Agent of Her Majesty exercising his functions in any foreign place;

Or before a Commissioner authorized by the laws of Ontario to take affidavits in and for any of the Courts of Record of the Province;

shall, for the purposes of and in or concerning any cause, matter or thing depending or in any wise concerning any proceedings in any Courts in this Province, be as valid and effectual and shall be of like force and effect to all intents and purposes as if such oath, affidavit, affirmation or declaration had been administered, sworn, affirmed or made in this Province before a Commissioner for taking affidavits therein, or other competent authority of the like nature. R. S. O. 1887, c. 61, s. 34.

38. Any document purporting to have affixed, impressed or subscribed thereon or thereto the signature of such Commissioner, or the signature and official seal of such Notary Public, or Prothonotary, or the seal of the Corporation, and the signature of such Mayor or Chief Magistrate or Governor as aforesaid, or the seal and signature of such Judge, Consul, Vice-Consul or Consular Agent in testimony of such oath, affidavit, affirmation or declaration having been administered, sworn, affirmed or made by or before him, or for any other purpose authorized by this Act, shall be admitted in evidence without proof of such signature, or seal and signature, being the signature or the seal and signature of the person whose signature or seal and signature the same purport to be, or of the official character of such person. R. S. O. 1887, c. 61, s. 35; 60 V. c. 3, s. 3.

Seal and signature need not be proved.

Formal Defects in Affidavits.

Informal headings, etc., not to invalidate.

Rev. Stat. c. 74.

39. No informality in the heading, or other formal requisites to any affidavit, declaration or affirmation, made or taken before a Commissioner or other person authorized to take affidavits under *The Act respecting Commissioners for taking Affidavits and Recognizances* or under this Act, shall be any objection to its reception in evidence, if the Court or Judge before whom it is tendered thinks proper to receive it. R. S. O. 1887, c. 61, s. 36.

Depositions.

Copies of depositions certified by person taking the same admissible in evidence.

40. Where an examination of a party or witness has been taken before a Judge or other officer or person appointed to take the same, copies of the examinations and depositions certified under the hand of the Judge, officer or other person taking the same, shall, without proof of the signature, be received and read in evidence, saving all just exceptions. R. S. O. 1887, c. 61, s. 37.

Proof of Wills.

In actions concerning real estate, probate, etc., to be *prima facie* evidence of will, etc., after certain notice, unless its validity is put in issue.

Rev. Stat. c. 59.

41. In any action where it is necessary to produce and prove an original will in order to establish a devise or other testamentary disposition of or affecting real estate, the party intending to establish in proof the devise or other testamentary disposition, may give notice to the opposite party ten days at least before the trial or other proceeding in which the proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence as proof of the devise or other testamentary disposition, the probate of the will or letters of administration with the will annexed, or a copy thereof, stamped with the seal of the Surrogate Court granting the same, or with the seal of the Court of Chancery, where the probate or letters of administration were granted by the former Court of Probate for Upper Canada; and in every such case the probate or letters of administration or copy thereof, respectively stamped as aforesaid, shall be sufficient evidence of such will, and of its validity and contents notwithstanding the same may not have been proved in solemn form, or have been otherwise declared valid in a contentious cause or matter, under *The Surrogate Courts Act*, unless the party receiving the notice within four days after the receipt, gives notice that he disputes the validity of the devise or other testamentary disposition. R. S. O. 1887, c. 61, s. 38.

As to costs of proving a will in an action.

42. In every case in which in such action the original will is produced and proved, the Court or Judge before whom such evidence is given may direct by which of the parties the costs thereof shall be paid. R. S. O. 1887, c. 61, s. 39.

43. In case of the death of a person in any of Her Majesty's possessions out of Ontario, after having made a will sufficient to pass real estate in Ontario, and whereby such estate has been devised, charged or affected, and in case such will has been duly proved in any Court having the proof and issuing probate of wills in any of such possessions, and remains filed in such Court, then in case notice of the intention to use such probate or certificate in the place of the original will, is given to the opposite party in such proceeding one month before the same is to be so used, the production of the probate of the will, or a certificate of the Judge, Registrar or Clerk of such Court, that the original is filed and remains in the Court, and purports to have been executed before two witnesses, shall in any proceeding in any Court in Ontario, concerning such real estate, be sufficient *prima facie* evidence of the will and the contents thereof, and of the same having been executed so as to pass real estate, without the production of the original will; but the probate or certificate shall not be used if, upon cause shewn before such Court, or a Judge thereof, the Court or Judge finds reason to doubt the sufficiency of the execution of the will to pass such real estate as aforesaid, and makes a rule or order disallowing the production of the probate. R. S. O. 1887, c. 61, s. 40.

Proof in the case of will of real estate filed in courts in other British possessions.

44. The production of the certificate, in the last preceding section mentioned, shall be sufficient *prima facie* evidence of the facts therein stated, and of the authority of the Judge, Registrar or Clerk, without proof of his appointment, authority or signature. R. S. O. 1887, c. 61, s. 41.

Certificate to be *prima facie* evidence.

Copies of Registered Instruments.

45. The word "instrument" in the next succeeding two sections shall have the meaning assigned to the word "instrument" in section 2 of *The Registry Act*. R. S. O. 1887, c. 61, s. 42.

Meaning of "instrument." Rev. Stat. c. 136.

46. An exemplification or a certified copy of any registered instrument or memorial under the hand and seal of office of the Registrar in whose office the same is registered shall be received as *prima facie* evidence, in every Court in Ontario, of the original of the instrument or memorial, except in the cases provided for in section 47. R. S. O. 1887, c. 61, s. 43.

Registered instrument *prima facie* evidence.

[As to effect of production of an original duplicate the registration of which is certified, see Cap. 136, sec. 63.]

47. In any action where it would be necessary to produce and prove an original instrument which has been registered in order to establish such instrument and the contents thereof, the party intending to prove such original instrument may give notice to the opposite party ten days at least before the trial, or other

Certified copies of registered instruments may be used instead of originals after notice.

proceeding in which the said proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence, as proof of the original instrument, a copy thereof certified by the Registrar, under his hand and seal of office, and in every such case the copy so certified shall be sufficient evidence of the original instrument, and of its validity and contents, unless the party receiving the notice within four days after such receipt, gives notice that he disputes the validity of the original instrument, in which case the costs of producing and proving the original may be ordered by the Court or Judge to be paid by any or either of the parties as may be deemed right. R. S. O. 1887, c. 61, s. 45.

Exception.

Costs in such cases.

Copies of official documents to be filed in lieu of originals.

48. Where in any legal proceeding, any public officer produces upon a subpoena an original document, such original document is not to be deposited in Court, except in the case provided for by the next section of this Act, but if the instrument or a copy is needed for subsequent reference or use by reason of judgment being postponed or for some other reason, a copy of the document or of so much thereof as the Judge deems necessary, certified under the hand of the officer producing the document or otherwise proved, shall be marked and filed as an exhibit in the place of the original where but for this Act the original should be so marked and filed; and the officer shall be entitled to receive in addition to his ordinary fees, the fees for any certified copy, the same to be paid to him before the said copy is delivered, marked or filed. 53 V. c. 21, s. 1; 55 V. c. 14, s. 2; 60 V. c. 15, Sched. A (39).

Original to be retained upon order of Judge.

49. Where there is a question as to the genuineness of the instrument, and the Judge deems it necessary for that or any other reason that the original be retained and makes an order to that effect setting forth the reason, such order shall be delivered to the Registrar or Clerk, and the exhibit shall be retained in Court accordingly, and marked and filed as heretofore. 53 V. c. 21, s. 2.

Instruments deposited in Offices of Land Titles.

Certified copies of instruments to be evidence.

50. A certified copy attested by the Master's seal of office of any instrument affecting land which may be deposited, filed, kept, or registered in the office of the Master or Local Master of Titles, shall be *prima facie* evidence of such instrument, and of the contents thereof; and no Master of Titles shall be required to produce any instrument as aforesaid, unless where it is made to appear to the Judge directing the issue of a subpoena that special reasons exist rendering the production of the original necessary, and the said several reasons are to be stated in the order. 53 V. c. 32, s. 10.

Copies of other written Instruments.

51.—(1) In any action, or proceeding, in the cases of telegrams, letters, shipping bills, bills of lading, delivery orders, receipts, accounts and other written instruments used in business and other transactions, where it is necessary to prove the original document, the party intending to prove the original may give notice to the opposite party ten days at least before the trial or other proceeding in which the said proof is intended to be adduced, that he intends at the trial or other proceeding to give in evidence as proof of the contents, an instrument purporting to be a copy of the document.

Copies of certain documents may be admitted as evidence on certain conditions.

(2) Such copy may then be inspected by the opposite party at some convenient time and place; and in every such case the copy shall without further proof be sufficient evidence of the contents of the original document, and be accepted and taken in lieu of the original, unless the party receiving the notice within four days after the time mentioned therein for such inspection gives notice that he intends to dispute the correctness or genuineness of the copy at the said trial or proceeding, and to require proof of the original; and the Court or Judge, before whom the question is raised may direct by which of the parties the costs which may thereupon attend any production or proof of the original document according to the rules of evidence heretofore existing, shall be paid. R. S. O. 1887, c. 61, s. 46.

Inspection.

Costs.

MISCELLANEOUS PROVISIONS.

52.—(1) Where upon application for this purpose, it is made to appear to the High Court or a Judge thereof, or to a County Court Judge in this Province, that any Court or tribunal of competent jurisdiction in a foreign country has duly authorized, by commission, order or other process, the obtaining the testimony in or in relation to any action, suit or proceeding pending in or before such foreign Court or tribunal, of any witnesses out of the jurisdiction thereof and within the jurisdiction of the Court or Judge so applied to, such Court or Judge may order the examination before the person appointed, and in a manner and form directed, by the commission, order or other process, of such witnesses accordingly; and may by the same or a subsequent order, command the attendance of any persons named therein for the purpose of being examined, or the production of any writings or other documents mentioned in the order; and give all such directions as to the time, place and manner of the examination, and all other matters connected therewith as may appear reasonable and just; and the order may be enforced, and any disobedience thereof punished, in like manner as in case of an order made

Witnesses may be ordered to be examined in relation to any matter pending before a foreign tribunal.

by the same Court or Judge in a cause depending in such Court or before such Judge. •

Payment of expenses of witness.

(2) Every person whose attendance is so ordered shall be entitled to the like conduct money and payment for expenses, and loss of time as upon attendance at a trial in the High Court.

Right of refusal to answer questions and to produce documents.

(3) Every person examined under such commission or other process as aforesaid, shall have the like right to refuse to answer questions tending to criminate himself, and any other questions which, in a cause pending in the Court by which or by a Judge whereof or before the Judge by whom the order for examination was made, the witness would be entitled to refuse to answer; and no person shall be compelled to produce at the examination, any writing or document which he would not be compellable to produce at the trial of such a cause.

Administration of oath.

(4) Where the commission directs, or the instructions of the Court accompanying the same direct, that the person to be examined shall be sworn or shall affirm before the Commissioner or other person, the Commissioner or other person shall have authority to administer an oath or affirmation to the person to be examined as aforesaid. R. S. O. 1887, c. 61, s. 47.

Evidence in actions where in any person resident in Great Britain is a party.

53. In an action or other proceeding relating to any debt or account (other than an action by or on behalf of Her Majesty), wherein a person residing in Great Britain is a party, the evidence and examination of witnesses on behalf of either or any of the parties to the action or proceeding, shall be the same, and given in the same manner as in other actions or proceedings according to the practice of the Court. R. S. O. 1887, c. 61, s. 48.

Attesting witness need not be called where none is required by law.

54. It shall not be necessary to prove by the attesting witness, any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto. R. S. O. 1887, c. 61, s. 50.

Comparison of disputed writing with genuine.

55. Comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be genuine, shall be permitted to be made by witnesses; and such writings and the evidence of witnesses respecting the same, may be submitted to the Court and jury, as evidence of the genuineness or otherwise of the writing in dispute. R. S. O. 1887, c. 61, s. 51.

When instruments offered in evidence may be impounded.

56. Where a document is received in evidence by virtue of this Act, the Court, Judge, Commissioner or other person acting or officiating judicially, who admits the same, may,

direct the same to be impounded and kept in the custody of an officer of the Court, or other person, for such period and subject to such conditions as to the Court or person who admits the document seem proper, or until further order touching the same has been made either by such Court or by the Court to which the officer belongs, or by the person or persons who constituted such Court, or by some one of the Judges of the High Court or a County Court (as the case may be), on application made for that purpose. R. S. O. 1887, c. 61, s. 52.

52. The provisions of this Act shall be deemed to be in addition to and not in derogation of any powers of proving documents given by any existing statute or existing at common law. 60 V. c. 17, s. 8.

Act to extend
and not to
limit modes of
proof under
existing law.

[See also *The Vendors and Purchasers Act, Cap. 134.*]

CHAPTER 74.

An Act respecting Commissioners for taking Affidavits and Recognizances.

COMMISSIONERS FOR TAKING AFFIDAVITS AND RECOGNIZANCES IN ONTARIO, ss. 1-9.	COMMISSIONERS FOR TAKING AFFIDAVITS IN OTHER PROVINCES FOR USE IN ONTARIO, s. 11.
COMMISSIONERS WITHOUT ONTARIO, ss. 10, 11.	AUTHORITY OF COMMISSIONERS, s. 12.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

COMMISSIONERS WITHIN ONTARIO.

Appointment of Commissioners for taking affidavits.

1. The Justices of the High Court or any two of them, of whom the President of any Division of the said Court shall be one, are hereby authorized to issue, under the seal of the High Court, commissions, and the Commissioners so appointed shall have the same powers as Commissioners who have been appointed under any previous statute in that behalf, from time to time, empowering such and so many persons as they think fit and necessary in the several counties within Ontario or in any Provisional County, to take and receive all and every such affidavits and affirmations (in cases where by law an affirmation is allowed) as any person or persons desire to make in or concerning any cause, matter or thing depending, or in any wise concerning any of the proceedings in the Courts of the Province. R. S. O. 1887, c. 62, s. 1.

[For appointment for Districts see *Cap. 109, sec. 7.*]

Appointment of commissioners for taking recognizances of bail.

2. The Justices aforesaid, may from time to time empower so many of the said Commissioners, or such and so many persons as they think fit and necessary, to be Commissioners in the several counties in Ontario, to take and receive every such recognizance of bail as any person may at any time desire to acknowledge or make in any action depending in the High Court or County Court in such manner and form and by such recognizance of bail as the Judges of the said Courts may take. R. S. O. 1887, c. 62, s. 2.

Recognizance to be filed.

3. The recognizance of bail, or bail piece so taken shall be filed in the office of the Clerk or Deputy Clerk of the Crown or Local Registrar in the County in which the same has been

taken, together with an affidavit of the due taking thereof by some person present at the taking thereof. R. S. O. 1887, c. 62, s. 3.

4. Every recognizance so taken and filed shall be of the like effect and subject to exception as to the bail, in like manner and within the same time as if taken in open Court. R. S. O. 1887, c. 62, s. 4.

Recognizances may be excepted to.

5. Any Judge of the High Court may take recognizances of bail in any action, which recognizances shall be filed as aforesaid without an affidavit, and shall be of the like effect as if taken in open Court. R. S. O. 1887, c. 62, s. 5.

Any Judge of the High Court may take recognizances of bail in an action.

6. The Judges and Clerks of the several County Courts respectively, may take all affidavits, affirmations and recognizances of bail required to be taken in their respective Courts. R. S. O. 1887, c. 62, s. 6.

The Judges and Clerks of County Courts may take affidavits, etc.

7. Every Commissioner for taking affidavits appointed by the High Court shall be deemed to be an officer of the said Court. R. S. O. 1887, c. 62, s. 7.

Each commissioner to be an officer of the court.

8. The High Court may revoke the commission of any such Commissioner, whether the commission was issued by such Court, or by any Court formerly authorized to issue commissions, and such revocation shall operate as a revocation for all purposes. R. S. O. 1887, c. 62, s. 8.

Revocation of commission.

9.—(1) All Commissioners appointed for any union of counties, and resident within the junior county, at the time of the separation thereof from the union, may exercise the same powers within the junior county to take and receive affidavits and affirmations and to take and receive bail, as if they had received their commissions or appointments respectively for the junior county at the time of the separation of such union of counties.

Commissioners for United Counties resident in Junior County may, after separation, act for Junior County.

(2) No such Commissioner shall have or exercise any such powers by virtue of his commission, save in the junior county. R. S. O. 1887, c. 62, s. 9.

And for Junior County only.

COMMISSIONERS OUT OF ONTARIO.

10.—(1) The Lieutenant-Governor may, by commission under his hand and seal, from time to time empower such persons as he thinks fit and necessary to administer oaths and take and receive affidavits, declarations and affirmations without this Province in or concerning any cause, matter or thing depending or in anywise concerning any of the proceedings to be had in the High Court or any other Court in this Province, and every oath, affidavit, declaration, or affirmation taken or made as aforesaid shall be as valid and effectual,

Lieutenant-Governor may appoint commissioners for taking affidavits, etc., without Ontario.

Effect of such affidavits, etc.

and shall be of the like force and effect to all intents and purposes as if such oath, affidavit, declaration or affirmation had been administered, taken, sworn, made or affirmed before a Commissioner for taking affidavits within the Province, or other competent authority.

Style of commissioners.

(2) The Commissioners so appointed shall be styled "Commissioners for taking affidavits in and for the Courts in Ontario." R. S. O. 1887, c. 62, s. 10.

Judges of the High Court may appoint commissioners in any Province.

11. The Justices of the High Court or any two of them, of whom the President of any Division of the said Court shall be one, are hereby authorized to issue under the seal of the High Court commissions from time to time empowering such and so many persons as they think fit and necessary to take and receive affidavits in any Province in the Dominion, in or concerning any cause, matter or thing depending, or in anywise concerning any of the proceedings to be had in the said Court, or in any other Court of Record in Ontario; and every affidavit taken as aforesaid, shall be of the same force as if taken in the particular Court in which the same is entitled or intended to be used. R. S. O. 1887, c. 62, s. 11.

AUTHORITY OF COMMISSIONERS, ETC.

The commissioners, etc., may take affidavits in all courts or in matters pending before a Judge and affidavits authorized to be made by any statute.

12. Every Commissioner heretofore or hereafter appointed for taking affidavits and affirmations within this Province, and every person heretofore or hereafter authorized to take affidavits to be used in any Court of this Province, may take affidavits and affirmations which any person desires to make in or concerning any action or proceeding pending in the High Court, or in the Court of Appeal or in any County or Division Court, or before a Judge or Judges of any of said Courts, and in or concerning any application or matter made or pending before any Judge of any Court in the Province which, by any statute now or hereafter in force in Ontario, and within the legislative authority of the Province, such Judge is authorized to hear and determine, or in which he is authorized to make any order, although the application or matter be not made or pending in any Court and may also take any affidavit or affirmation authorized to be made by any statute. R. S. O. 1887, c. 62, s. 12.

Commissioners may take statutory declarations.

13. Commissioners for taking affidavits in any county or district in this Province, shall be deemed to have power within such county or district to take statutory declarations in all cases in which statutory declarations may be taken, or may be required under any Act from time to time in force in this Province. 53 V. c. 22, s. 1.

[See *The Registry Act*, Cap. 136, sec. 46, for powers under that Act. Under Cap. 175, sec. 3, *Notaries Public* have the powers of Commissioners.]

CHAPTER 75.

An Act respecting the Costs of Distress or Seizure of Chattels.

FEES WHICH MAY BE CHARGED, ss. 1-5.	Right of action unaffected, s. 13. Forms of orders, etc., s. 14.
PENALTY FOR EXACTING UNAUTHORIZED FEES, ss. 6-10.	STATEMENT OF DEMAND AND CHARGES TO BE FURNISHED, s. 15.
Costs where complaint unfounded, ss. 11-12.	TAXATION OF CHARGES, ss. 16-20.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. No person making distress for rent or for a penalty where the sum demanded and due, in respect of the rent or penalty, does not exceed \$80, and no person employed in making the distress, or doing any act in the course of the distress, or for carrying the same into effect, shall take or receive, from any person, or out of the produce of the chattels distrained and sold, any other costs in respect of the distress, than such as are set forth in Schedule A hereunto annexed. R. S. O. 1887, c. 63, s. 1, part.

2. When the sum to be levied by distress for rent or for any penalty exceeds the sum of \$80 no further charges shall be made for or in respect of costs or expenses by any person making the distress or employed in doing any act in the course of such distress than such as are set forth in Schedule A of this Act except the following, that is to say:

- (a) The actual expenses or outlay reasonably incurred in removing the goods distrained or part thereof when such removal is necessary :
- (b) Advertisement when necessarily published in a newspaper, \$2 ; but not exceeding \$5.
- (c) If any printed advertisement otherwise than in a newspaper, \$1 ; but not to exceed \$3.
- (d) The sum of \$1 per day for man keeping possession, in lieu of 75 cents per day as allowed in said Schedule A.

- (e) Where the amount due shall be satisfied in whole or in part, after seizure and before sale, the bailiff or person seizing shall be entitled to charge and receive but three per cent on the amount realized, in lieu of five per cent, and no more. R. S. O. 1887, c. 143, s. 35.

Costs in respect of seizure of exempted goods.

3. No costs shall be levied for or in respect of the seizure upon exempted goods when they may not be lawfully sold, and when sold no greater sum in all than \$2, and actual and necessary payments for possession money, shall be levied or retained for or in respect of costs and expenses of sale of such exempted goods. R. S. O. 1887, c. 143, s. 34.

Tariff of fees and costs on seizure of goods under chattel mortgage.

4. No person making a seizure or sale of goods for default in payment of the principal money or interest secured by any chattel mortgage or bill of sale, shall charge any greater or other fees or costs with respect to such seizure or sale than those set forth in Schedule B hereto annexed. 59 V. c. 33, s. 1 (1), part. 60 V. c. 15, Sched. A (75).

No charge for anything not done.

5. No person shall make any charge for anything mentioned in the said Schedules unless such thing has been actually done. R. S. O. 1887, c. 63, s. 1, part; 59 V. c. 33, s. 1, (2).

Penalty for extortion.

6. If a person offends against any of the provisions of the preceding sections the party aggrieved may apply to a Justice of the Peace for the county, city or town where the offence was committed, for the redress of the grievance, whereupon the Justice shall summon the person complained of to appear before him, at a reasonable time to be fixed in the summons, and the Justice shall examine into and hear the complaint and defence; and if it appears that the person complained of has so offended, the Justice shall order and adjudge treble the amount of the money unlawfully taken and full costs to be paid by the offender to the party aggrieved. R. S. O. 1887, c. 63, s. 2; c. 143, s. 36; 59 V. c. 33, s. 2.

How penalty to be levied.

7. In case of non-payment of money or costs so adjudged the Justice shall forthwith issue his warrant to levy the same by distress and sale of the goods and chattels of the person convicted, rendering to him the overplus, if any. R. S. O. 1887, c. 63, s. 3.

Commitment.

8. In case no sufficient distress can be had, the Justice shall by warrant under his hand and seal, commit the person convicted to the Common Gaol within the limits of his jurisdiction, for such time not exceeding three months as the Justice may consider fitting, unless the order or judgment is sooner satisfied. R. S. O. 1887, c. 63, s. 4; 60 V. c. 15, Sched. A (20).

9. The Justice, at the request of either party, may summon and examine witnesses, and may administer an oath to them touching the complaint, or defence. R. S. O. 1887, c. 63, s. 5.

Justice may
summon wit-
nesses.

10. If a person so summoned neglects to obey the summons without reasonable or lawful excuse, or refuses to be examined upon oath (or affirmation, as the case may be), he shall forfeit a sum not exceeding \$8, to be adjudged, levied and paid in such manner, and by such means, and with such power of commitment, as hereinbefore directed with respect to orders and judgments made or given at the instance of original complainants, excepting as regards the form thereof, which may be as the Justice thinks fit. R. S. O. 1887, c. 63, s. 6.

Penalty for
disobeying.

11. If the Justice finds that the complaint of the party aggrieved is not well founded, he may order and adjudge costs, not exceeding \$4, to be paid by the complainant to the party complained against, which order shall be carried into effect and levied and paid in the manner hereinbefore directed with respect to orders and judgments made or given at the instance of original complainants. R. S. O. 1887, c. 63, s. 7.

Costs where
complaint
unfounded.

12. Nothing hereinbefore contained shall empower the Justice to make any order or judgment against the person for whose benefit the distress, seizure or sale has been made, unless he personally levied the distress or personally made the seizure or sale. R. S. O. 1887, c. 63, s. 8 ; 59 V. c. 33, s. 2.

Justices not to
make orders
against land-
lord, etc.

13. No person aggrieved by a seizure or sale of goods under a chattel mortgage or bill of sale or by a distress for rent or a penalty, or by any proceeding had in the course thereof, or by any costs or charges levied upon him in respect of the same, shall be barred from any action or remedy which he might have had before the passing of this Act, except so far as any complaint preferred under this Act has been determined by the order and judgment of the Justice before whom it has been heard and determined ; and in case the matter of the complaint is made the subject of an action, the order and judgment may be given in evidence, under the defence of not guilty. R. S. O. 1887, c. 63, s. 9 ; 59 V. c. 33, s. 2.

Person
aggrieved by
seizure or dis-
tress not
barred of his
action, etc.

14. Orders and judgments on such complaints may be made in the words or to the effect of the forms given in Schedule C hereunto annexed ; and any such order or judgment may be proved before any Court, by proof of the signature of the Justice thereto. R. S. O. 1887, c. 63, s. 10.

Form of order
and judgment.

15. Every person who makes and levies a distress shall give a statement in writing of the demand, and of all the costs and charges of the distress, signed by him, to the person on whose goods and chattels the distress is levied, although the amount of the rent or penalty demanded exceeds the sum of \$80,

Persons levy-
ing distress to
give copy of
charges to
party distrain-
ed on.

and every person who makes a seizure under a chattel mortgage or bill of sale shall give to the person in possession of the chattels seized a statement in writing signed by him of the demand and of the costs charged in respect of the seizure and subsequent proceedings. R. S. O 1887, c. 63, s. 11 ; c. 143, s. 43 ; 59 V. c. 33, s. 2.

Taxation of costs of distress.

16. The person whose goods are distrained or the person authorizing the distress, or any other person interested, may, upon giving two days' notice in writing, have the costs of the bailiff or other person making the distress and the disbursements charged taxed by the clerk of the Division Court within whose division the distress has been made. R. S. O. 1887, c. 143, s. 37.

Persons making distress to give bill of costs to clerk for taxation.

17. The bailiff or person so making the said distress shall furnish the clerk with a copy of his costs, charges and disbursements for taxation at the time mentioned in the notice, or at such other time as the clerk may direct, and in default of his so doing he shall not be entitled to any costs, charges or disbursements whatever. R. S. O. 1887, c. 143, s. 38.

Duty of clerk on taxation.

18. The clerk upon such taxation shall, amongst other things, consider the reasonableness of any charges for removal, keeping possession, and for advertising, or any sums alleged to have been paid therefor, and may examine either party on oath, touching the same. The person requiring the taxation shall pay the clerk a fee of twenty-five cents therefor. R. S. O. 1887, c. 143, s. 39.

Revision of taxation.

19. Where that portion of the bill or charges in dispute amounts to the sum of \$10, either party may, on giving two days' notice, have the taxation revised by the clerk of the County Court who shall be paid a fee of fifty cents for such revision by the person appealing, and such fee may, in the discretion of the clerk, be deducted from or added to the bill as finally taxed by him. R. S. O. 1887, c. 143, s. 40.

Taxation not conclusive on proceedings under s. 6.

20. In any proceedings taken under section 6 of this Act the taxation shall not be received as conclusive evidence. R. S. O. 1887, c. 143, s. 41.

SCHEDULE A.

(Sections 1 and 2.)

COSTS ON DISTRESS FOR SMALL RENTS AND PENALTIES.

1. Levying distresses under \$80..... \$1 00
2. Man keeping possession, per diem..... 0 75
3. Appraisement, whether by one appraiser or more—*two cents in the dollar on the value of the goods ;*
4. If any printed advertisement, not to exceed in all..... 1 00
5. Catalogues, sale and commission, and delivery of goods—*five cents in the dollar on the net produce of the sale.*

R. S. O. 1887, c. 63, Sched. A.

SCHEDULE B.

(Section 4.)

COSTS ON SEIZURE UNDER CHATTEL MORTGAGES OR BILLS OF SALE.

1. For making seizure where amount of debt does not exceed \$100..	\$1 00
2. For making seizure where amount of debt exceeds \$100.....	1 50
3. One man keeping possession, per diem.....	1 00
4. If any printed advertisement, the same not to exceed in all.....	1 50
5. For catalogues, sale and commission and delivery of goods, <i>five cents in the dollar on the net proceeds of the sale</i> , up to \$100 and where the proceeds of the sale exceed \$100 <i>two and one-half per cent. on the excess over \$100</i>	
6. Where debt is paid before sale, a <i>commission of two cents in the dollar</i> , and the amount actually disbursed in cartage not to exceed	2 00
59 V. c. 33, s. 1 (1), part.	

SCHEDULE C.

(Section 14.)

FORM 1.

FORM OF THE ORDER AND JUDGMENT OF THE JUSTICE BEFORE WHOM COMPLAINT IS PREFERRED WHEN THE ORDER AND JUDGMENT IS FOR THE COMPLAINANT.

In the matter of the complaint of *A. B.* against *C. D.*, for the breach of the provisions of the Act Chapter 75 of *The Revised Statutes of Ontario*, 1897, entitled "*An Act respecting the Costs of Distress or Seizure of Chattels*," I, *E. F.*, a Justice of the Peace for the , do order and adjudge that the said *C. D.* shall pay to *A. B.* the sum of , as a compensation and satisfaction for unlawful charges and costs levied and taken from the said *A. B.*, under a distress for (as the case may be), and the further sum of for costs in this complaint.

(Signed) *E. F.*

R. S. O. 1887, c. 63, Sched. B, Form 1.

FORM 2.

FORM OF THE ORDER AND JUDGMENT OF THE JUSTICE WHEN HE DISMISSES THE COMPLAINT AS UNFOUNDED, WITH OR WITHOUT COSTS, AS THE CASE MAY BE.

In the matter of the complaint of *A. B.* against *C. D.*, for the breach of the provisions of the Act Chapter 75 of *The Revised Statutes of Ontario*, 1897, entitled "*An Act respecting the Costs of Distress or Seizure of Chattels*," I, *E. F.*, a Justice of the Peace in and for the , do order and adjudge that the complaint of the said *A. B.* is unfounded; (if costs are given add, and I do further order and adjudge that the said *A. B.* shall pay unto the said *C. D.* the sum of .)

(Signed) *E. F.*

R. S. O. 1887, c. 63, Sched. B, Form 2.

CHAPTER 76.

An Act respecting the Enforcement of Judges' Orders in matters not in Court.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Enforcing orders of judge made under special statutory authority.

1. Where jurisdiction has been or shall be given by any Act to a Judge as *persona designata*, he shall be deemed to have jurisdiction therein as a Judge of the Court to which he belongs, and he is to have the same jurisdiction for enforcing his orders and judgments and as to proceedings generally, and as to costs and otherwise, as in matters under his ordinary jurisdiction as a Judge of the Court in which he is such Judge, so far as a different mode is not directed by the statute giving him the jurisdiction aforesaid. 56 V. c. 13, s. 1.

Filing orders.

2. Every order of a Judge of the High Court made under statutory authority as aforesaid, may be filed at Toronto in the Central Office of the High Court of Justice, or in an outer county with a Local Registrar, Deputy Registrar or Deputy Clerk of the Crown, and every order of a Judge of a County or District Court made under said statutory authority may be filed with the clerk of the Court, and upon an order being so filed, the same shall become and be an order of the High Court of Justice, or of the County or District Court as the case may be, and may be enforced in the same manner and by the like process as if the order had been made by the said Court. 56 V. c. 13, s. 2.; 60 V. c. 3, s. 3.

Fees on filing.

3. There shall be payable at the time of filing such order the like fees as would be payable upon the issue of an order made by a Judge of the High Court or County or District Court, as the case may be, in the exercise of his ordinary jurisdiction. 56 V. c. 13, s. 3.

Entry of orders.

4. Every order so filed shall be entered in the same manner as a judgment of the Court in which the order is so filed 56 V. c. 13, s. 4.

Costs to be in discretion of judge.

5. The costs of every proceeding before a Judge of the High Court or of a County or District Court under this Act shall be in the discretion of such Judge. 56 V. c. 13, s. 5.

No appeal except when expressly authorized.

6. There shall be no appeal from the order of a Judge made as aforesaid unless an appeal is expressly authorized by the statute giving the jurisdiction. 56 V. c. 13, s. 6.

CHAPTER 77.

An Act respecting Execution.

SHORT TITLE, s. 1.

GOODS EXEMPT FROM SEIZURE, ss. 2-7.

WRITS AGAINST LANDS AND GOODS,
ss. 8, 9.

Renewal of, s. 9.

WHAT MAY BE SEIZED UNDER EX-
ECUTION AGAINST GOODS—Stocks in certain companies,
ss. 10-16.Equity of redemption of chattels
mortgaged, s. 17.

Money and securities, ss. 18-20.

Security to sheriff, ss. 21, 22.

Mortgages, ss. 18, 23-28.

WHAT MAY BE SOLD UNDER EXECU-
TION AGAINST LANDS—Equity of redemption² of lands,
ss. 29-32.

Contingent interests, s. 33.

CHURCH PEWS AND SITTINGS, s. 34.

SALES AGAINST EXECUTORS, s. 35.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows :—

1. This Act may be cited as "*The Execution Act.*" R. S. O. Short title.
1887, c. 64, s. 1.

EXEMPTION.

2. The following chattels shall be exempt from seizure Chattels ex-
empt from
seizure.
under any writ, in respect of which this Province has legis-
lative authority, issued out of any Court whatever in this
Province, namely :

1. The bed, bedding and bedsteads (including a cradle), in Bedding.
ordinary use by the debtor and his family ;

2. The necessary and ordinary wearing apparel of the debtor Apparel.
and his family ;

3. One cooking stove with pipes and furnishings, one other Furniture
heating stove with pipes, one crane and its appendages, one
pair of andirons, one set of cooking utensils, one pair of tongs
and shovel, one coal scuttle, one lamp, one table, six chairs,
one washstand with furnishings, six towels, one looking glass,
one hair brush, one comb, one bureau, one clothes press, one
clock, one carpet, one cupboard, one broom, twelve knives,
twelve forks, twelve plates, twelve tea cups, twelve saucers, one
sugar basin, one milk jug, one tea pot, twelve spoons, two pails,
one wash tub, one scrubbing brush, one blacking brush, one
wash board, three smoothing irons, all spinning wheels and

weaving looms in domestic use, one sewing machine and attachments in domestic use, thirty volumes of books, one axe, one saw, one gun, six traps, and such fishing nets and seines as are in common use, the articles in this subdivision enumerated, not exceeding in value the sum of \$150 ;

Fuel and provisions.

4. All necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of \$40 ;

Animals.

5. One cow, six sheep, four hogs, and twelve hens, in all not exceeding the value of \$75, and food therefor for thirty days, and one dog ;

Tools.

6. Tools and implements of or chattels ordinarily used in the debtor's occupation, to the value of \$100 ;

Bees.

7. Bees reared and kept in hives to the extent of fifteen hives. R. S. O. 1887, c. 64, s. 2.

Debtor may take proceeds of sale of implements, etc., in money.

3. The debtor may in lieu of tools and implements of or chattels ordinarily used in his occupation referred to in clause 6 of section 2 of this Act, elect to receive the proceeds of the sale thereof up to \$100, in which case the officer executing the writ shall pay the net proceeds of such sale if the same do not exceed \$100, or, if the same exceed \$100, shall pay that sum to the debtor in satisfaction of the debtor's right to exemption under said subdivision 6, and the sum to which a debtor shall be entitled hereunder shall be exempt from attachment or seizure at the instance of a creditor. R. S. O. 1887, c. 64, s. 3.

Goods exempted from seizure after death of the debtor to go to widow and family.

4. The chattels so exempt from seizure as against a debtor shall, after his death, be exempt from the claims of creditors of the deceased, and the widow shall be entitled to retain the exempted goods for the benefit of herself and the family of the debtor, or, if there is no widow, the family of the debtor shall be entitled to the exempted goods. R. S. O. 1887, c. 64, s. 4, part.

Right of selection.

5. The debtor, his widow or family, or, in the case of infants, their guardian, may select out of any larger number the several chattels exempt from seizure. R. S. O. 1887, c. 64, s. 5.

Exception.

6. Nothing herein contained shall exempt any article enumerated in subdivisions 3, 4, 5, 6 and 7 of section 2 of this Act from seizure in satisfaction of a debt contracted for the identical article. R. S. O. 1887, c. 64, s. 6.

Goods liable to seizure to continue so liable for

7. Notwithstanding anything contained in the preceding sections, the various goods and chattels which were prior to

the first day of October, 1887, liable to seizure in execution for debt shall, as respects debts which were contracted prior to the said day, remain liable to seizure and sale in execution, provided that the writ of execution under which they are seized has endorsed upon it a certificate signed by the Judge of the Court out of which the writ issues, if a Court of Record, or where the execution issues out of a Division Court, by the Clerk of the Court, certifying that it is for the recovery of a debt contracted before the date hereinbefore mentioned. R. S. O. 1887, c. 64, s. 7; 51 V. c. 11, s. 6.

debts contracted before Oct. 1, 1887.

WRITS AGAINST LANDS AND GOODS.

8. Subject to Rules every writ of execution issuing under any judgment or order of a Court or Judge for the payment of money, except a writ of execution issued from a Division Court, shall be issued against both the lands and tenements and the goods and chattels of the execution debtor. 57 V. c. 26, s. 1; 58 V. c. 14, s. 1.

Lands and goods to be included in one writ.

9. It shall not be necessary to renew from year to year any writ of execution now in the hands of a sheriff or hereafter issued, but all such writs of execution shall remain in force for a period of three years, or until satisfied in the meantime by payment or withdrawal by the party prosecuting the same, and every such writ may be renewed from time to time for periods of three years in the same manner as a writ of execution was formerly renewed from year to year. 57 V. c. 26, s. 2; 58 V. c. 13, s. 31, part.

Writs may be renewed every three years.

WHAT MAY BE SEIZED UNDER EXECUTION AGAINST GOODS.

Stocks in certain Companies.

10. All shares and dividends of stockholders or any equity of redemption in any such shares or dividends in any incorporated bank or other incorporated company in Ontario, having transferable joint stock, shall be held to be personal property, and shall be liable to *bona fide* creditors for debts, and may be attached, seized and sold under execution in like manner as other personal property. R. S. O. 1887, c. 64, s. 9; 58 V. c. 13, s. 32.

Shares and dividends etc., liable to seizure.

11. The sheriff or other officer to whom an execution is directed, on being informed on behalf of the plaintiff that the defendant has such stock, and on being required to seize the same, shall forthwith serve a copy of the execution on the company with a notice that all the shares which the defendant has in the stock

Copy of execution to be served on the company with notice of seizure.

Stock not to be transferred while under seizure; and sale under seizure to include all dividends, etc.

of the company are seized accordingly; and from the time of service no transfer of the stock by the defendant shall be valid, unless and until the seizure has been discharged; and every seizure, and sale made under the same, shall include all dividends, premiums, bonuses, or other pecuniary profits upon the shares seized, and the same shall not after notice as aforesaid, be paid by the company to any one, except the person to whom the shares have been sold by the officer, unless and until the seizure is discharged, on pain of paying the same twice. R. S. O. 1887, c. 64, s. 10.

Provisions for the case of the company having more than one place where service of process may be legally made upon them or transfers notified.

12. If the company has more than one place where service of process may be made upon them, and there is some place where transfers of stock may be notified to and entered by the company so as to be valid as regards the company, or where dividends or profits as aforesaid on stock may be paid other than the place where service of such notice has been made, the notice shall not affect any transfer or payment of dividends or profits duly made and entered at any such other place, so as to subject the company to pay twice, or to affect the rights of any *bona fide* purchaser, until after the expiration of a period from the time of service sufficient for the transmission of notice of service by post from the place where it has been made to such other place, which notice it shall be the duty of the company to transmit by post. R. S. O. 1887, c. 64, s. 11.

Shares to be personal property at the place where notice of seizure served. Mode of proceeding after sale.

13. The shares in the said stock shall be held to be personal property, found in the place where notice of the seizure thereof is served as aforesaid. R. S. O. 1887, c. 64, s. 12.

14. Where any such share is sold under an execution, the officer shall, within ten days after sale, serve upon the company at some place where service of process may be made, an attested copy of the writ of execution, with his certificate endorsed thereon, certifying the name of the purchaser who shall thereafter be the holder of the share, and who shall have the same rights, and be under the same obligations as if he had duly purchased the share from the proprietor thereof; and the proper officer of the company shall enter such sale as a transfer in the manner by law provided. R. S. O. 1887, c. 64, s. 13.

Saving of all other remedies.

15. Nothing in this Act shall be construed to impair the effect of any remedy which the plaintiff might, without this Act, have had against any shares of such stock as aforesaid, by attachment or otherwise, and the provisions of the next preceding four sections shall apply to such remedy in so far as they can be applied thereto. R. S. O. 1887, c. 64, s. 14.

What shall be deemed incorporated companies.

16. All corporations, established for the purpose of trade or profit, or for the construction of any work, or for any purpose from which revenue is intended to be derived, shall be deemed

incorporated companies for the purpose of the next preceding six sections of this Act, though they are not called companies in the Act or charter incorporating them. R. S. O. 1887, c. 64, s. 15.

Equity of redemption in chattels saleable.

17.—(1) Under an execution against goods, the sheriff or other officer to whom the same is directed may seize and sell the interest or equity of redemption in any goods or chattels, including leasehold interests in any lands, of the party against whom the writ has issued, and such sale shall convey whatever interest the mortgagor had in the goods and chattels at the time of the seizure. R. S. O. 1887, c. 64, s. 16.

The interest of a mortgagor in goods mortgaged may be sold in execution.

(2) The words "goods and chattels" in this section shall include shares and dividends of stockholders in any incorporated bank or other incorporated company in Ontario having transferable joint stock. 58 V. c. 13, s. 32, part.

Money and Securities.

18. The sheriff or other officer having the execution of a writ against goods sued out of the High Court, or out of a County Court, shall seize any money or bank-notes (including any surplus of a former execution against the debtor), and any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties, or other securities for money, belonging to the person against whose effects the writ of execution has issued, and subject to the provisions of *The Creditors' Relief Act*, shall pay or deliver to the party who sued out the execution, the money or bank-notes so seized, or a sufficient part thereof, and shall hold such cheques, bills of exchange, promissory notes, bonds, specialties or other securities for money, as security for the amount by the writ and endorsement thereon directed to be levied, or so much thereof as has not been otherwise levied or raised, and the sheriff or other officer may sue in his own name for the recovery of the sums secured thereby, when the time of payment thereof has arrived. R. S. O. 1887, c. 64, s. 17.

Rev. Stat. c. 78.

Money seized to be paid over to execution creditor.

Sheriff to sue for securities.

[As to proceedings under Division Court Executions, see also Chap. 60, secs. 218-241.]

19. The payment to the sheriff or other officer by the party liable on such cheque, bill of exchange, promissory note, bond, specialty or other security, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution (as the case may be), from his liability thereon. R. S. O. 1887, c. 64, s. 18.

Payment to sheriff to be valid.

Sheriff to pay
over proceeds.

Rev. Stat.
c. 78.

Surplus to be
paid to the
execution
debtor.

20. Subject to the provisions of *The Creditors' Relief Act*, the sheriff or other officer shall pay over to the party who sued out the writ the money so recovered, or a sufficient sum to discharge the amount by the writ directed to be levied, and if, after satisfaction of the amount together with sheriff's poundage and expenses, a surplus remains in the hands of the sheriff or other officer, the same shall be paid to the party against whom the writ issued. R. S. O. 1887, c. 64, s. 19.

Security to Sheriffs, etc.

Sheriff not
bound to sue
until indemnified.

21. No sheriff or other officer shall be bound to sue any party liable upon such cheque, bill of exchange, promissory note, bond, specialty or other security, unless the party who sued out the execution enters into a bond with two sufficient sureties to indemnify the sheriff or officer from all costs and expenses to be incurred in the prosecution of the action, or to which he may become liable in consequence thereof; and the expenses of the bond may be deducted out of any money recovered in the action. R. S. O. 1887, c. 64, s. 20.

Instructions
and indemnity
to sheriff on
seizing goods
claimed by
third parties.

22.—(1) A sheriff shall not without written instructions and a bond, as hereinafter mentioned, be obliged to seize property which is in the possession of a third party claiming the same, and not in the possession of the debtor against whose property the writ or other process was issued.

(2) The written instructions to be delivered to the sheriff shall specify the goods and chattels in such a way as to enable the sheriff to identify the same as the goods and chattels intended.

(3) The bond is to be a bond of indemnity to the sheriff and his assigns, with two sufficient sureties, who are to justify in double the supposed value of the property, such supposed value to be stated in an affidavit by the creditor or his solicitor or agent and attached to the bond.

(4) The bond is to be assignable to the claimant, and is to be conditioned that the parties executing the same will be liable for the costs and expenses which the sheriff or claimant may be put to by the seizure or subsequent dealings with the property, including the interpleader suit (if any), and which he does not recover from other persons who ought to pay the same.

(5) In case the sheriff is not satisfied with the bond offered the matter in difference is to be determined and disposed of by a Judge.

Damages.

(6) Damages claimable shall be the same as before the passing of this Act.

Right of
sheriff to
interpleader
not affected.

(7) Nothing in this section shall be construed to limit the right of the sheriff to apply for relief by Interpleader under the present law and the practice of the Courts. 56 V. c. 5, s. 11.

23.—(1) The word “plaintiff” or the word “creditor” in this section includes any person named in a writ of execution as the person for whom the levy is to be made. The word “defendant” or the word “debtor” includes any person of whose property the money is directed to be levied. 56 V. c. 5, s. 1.

Interpretation
“plaintiff”
“creditor”
“defendant”
“debtor.”

(2) In case a sheriff to whom a writ of execution is addressed is informed on behalf of the plaintiff, that the defendant is a mortgagee of land and that the mortgage is registered, or that the defendant is entitled to receive a sum of money charged upon lands by virtue of any registered instrument, and in case the sheriff is required on behalf of the plaintiff to seize the mortgage or charge, and is furnished in writing with the information necessary to enable him to give the notice hereinafter mentioned, he shall, upon payment of the proper fees, forthwith deliver or transmit to the Registrar or Master of Titles in whose office the mortgage or other instrument is registered, a notice in the form or to the effect following :

Taking money
secured by
mortgage
under execu-
tion.

To the Registrar of

(or as the case may be)

By virtue of a writ of *feri facias* to me directed and issued out of the High Court of Justice at

(or the County Court of

Form of
sheriff's notice
to registrar.

the County of), whereby I am commanded to levy against the goods and chattels of *A. B.* the sum of \$, for debt, and \$ for costs lately adjudged to be paid by the said *A. B.* to *C. D.*, besides the costs of executions, I have this day seized and taken in execution all the estate, right, title and interest of the said *A. B.* in a certain mortgage made by *X. Y.* to the said *A. B.*, and which bears date on the day of , and was registered in the registry office for the County of , on the day of A.D. , as number

(or the said mortgage or other instrument may be described in any other manner by reference to dates, parties and the land covered as will enable the notice to be recorded upon the lands therein described) and in the moneys secured thereby, and this notice is given for the purpose of binding the interests of the said *A. B.* under sections 23 to 28 of *The Execution Act.*

Dated this day of

(Signed) *M. N.*

Sheriff of the County of

56 V. c. 5, s. 2; 60 V. c. 14, s. 90.

(3) Upon registration of the said notice, the interest of the execution debtor in the mortgage or other instrument, and in the lands therein described, and in the moneys thereby secured and in all covenants and stipulations for the securing of payment thereof, shall be bound by the execution, and such registration shall be deemed to be notice of the said execution and seizure to all persons who may thereafter in any way acquire any interest in the mortgage, lands, moneys, or covenants; and the rights of the sheriff and execution creditor shall have priority over the rights of all such persons, subject, as regards the mortgagor or person liable to pay the money secured by the mortgage or charge, to the next section of this Act. 56 V. c. 5, s. 3.

Effect of reg-
istration of
sheriff's notice
to registrar.

24.—(1) A notice similar to the notice mentioned in the next preceding section or containing the like information shall

Notice to
mortgagor.

also be served upon the mortgagor or upon the person who is liable to pay the moneys secured by the registered instrument; and upon such service the person served shall pay to the sheriff all moneys payable or which may become payable to the execution debtor.

Mode of effecting service.

(2) Service of such notice may be made personally, or by leaving the same at the dwelling-house of the person to be served with a grown up person dwelling there, or by registered letter to the proper address of the person to be served.

Payments made after notice.

(3) Any payment made after service of the notice or after actual knowledge of the seizure shall be void as against the sheriff and execution creditor. 56 V. c. 5 s. 4.

Sheriff enforcing mortgage.

25. In addition to the remedies herein provided, the sheriff may bring an action on such mortgage or other instrument for the sale or foreclosure of the lands covered by the mortgage or other instrument, and shall be entitled to a bond of indemnity as in the cases provided for in section 21. 56 V. c. 5, s. 5.

Expiry or setting aside of execution after registration of notice.

26. Upon a writ of execution, notice whereof is registered under section 23, expiring or being satisfied, set aside or withdrawn, a certificate of such fact by the sheriff or the execution creditor, or the order to set aside, as the case may be, may be registered and thereupon such seizure shall be vacated and deemed at an end. 56 V. c. 5, s. 6.

Verification of order and certificates.

27. The order of Court or the certificate of the sheriff shall not require verification. The certificate of the execution creditor shall be verified by the oath of a subscribing witness as in the case of other instruments affecting lands. 56 V. c. 5, s. 7.

Fees of registrar and sheriff.

28. For the registration of any notice under section 23, or of a certificate under section 26, the registrar or master shall be entitled to a fee of 50 cents; and for every notice of seizure under section 23 of this Act, the sheriff shall be entitled to a fee of \$1. 56 V. c. 5, s. 8.

WHAT MAY BE SOLD UNDER EXECUTION AGAINST LANDS.

Equity of Redemption.

Interpretation.

29. Wherever the word "mortgagor" occurs in the next succeeding three sections, it shall be read and construed as if the words "his heirs, executors, administrators or assigns, or person having the equity of redemption," were inserted immediately after the word "mortgagor." R. S. O. 1887, c. 64, s. 21.

The interest of a mortgagor in lands mortgaged may be sold on execution.

30.—(1) The sheriff or other officer to whom a writ of execution against the lands and tenements of a mortgagor of real estate is directed, may seize, sell and convey all the interest of the mortgagor in the mortgaged lands and tenements.

(2) The equity of redemption in a freehold mortgage of real estate shall be saleable under an execution against the lands and tenements of the owner of the equity of redemption in his lifetime, or in the hands of his executors or administrators after his death, subject to the mortgage, in the same manner as lands and tenements can now be sold under an execution. R. S. O. 1887, c. 64, s. 22.

31. The effect of the seizure or taking in execution, sale and conveyance, of mortgaged lands and tenements, shall be to vest in the purchaser, his heirs and assigns, all the interest of the mortgagor therein at the time the writ was placed in the hands of the sheriff or other officer to whom the same is directed, as well as at the time of the sale, and to vest in the purchaser, his heirs and assigns, the same rights as the mortgagor would have had if the sale had not taken place; and the purchaser, his heirs or assigns, may pay, remove or satisfy any mortgage, charge or lien which at the time of the sale existed upon the lands or tenements so sold, in like manner as the mortgagor might have done; and thereupon the purchaser, his heirs and assigns, shall acquire the same estate, right and title as the mortgagor would have acquired in case the payment, removal or satisfaction had been effected by the mortgagor; and on payment of the mortgage money to the mortgagee by the purchaser, his heirs or assigns, the mortgagee, his heirs or assigns, shall, if required, give to the purchaser, his heirs or assigns, at his or their charge, a certificate of payment or satisfaction of the mortgage, which certificate may be in the following form, that is to say:

To the Registrar of the County of

I, A. B., of _____, do certify that C. D., of _____, who has become the purchaser of the interest of E. F., of _____ has satisfied all money due upon a certain mortgage made by the said E. F. to me, bearing date the _____ day of _____ 18____ and registered at _____ of the clock in the forenoon (as the case may be) of the _____ day of _____, in the same year (or as the case may be), and that such mortgage is therefore discharged.

As witness my hand, this _____ day of _____, 18____.

(Signed) A. B.

E. H., of _____, }
G. H., of _____, } Witnesses.

And such certificate shall be of the like effect, and shall be acted upon by registrars and others to the same extent as if the same had been given to the mortgagor. R. S. O. 1887, c. 64, s. 23.

32. A mortgagee of lands and tenements so sold, or the heirs or assigns of the mortgagee (being or not being plaintiff or defendant in the judgment whereon the writ of execution under which the sale takes place has issued), may be the purchaser at the sale, and shall acquire the same estate, interest

Mortgagee
may become
purchaser at
sheriffs' sale.

and rights thereby as any other purchaser; but in the event of the mortgagee becoming the purchaser, he shall give to the mortgagor a release of the mortgage debt; and if another person becomes the purchaser, and if the mortgagee enforces payment of the mortgage debt against the mortgagor, then the purchaser shall repay the debt and interest to the mortgagor, and in default of payment thereof within one month after demand, the mortgagor may recover the debt and interest from the purchaser, and shall have a charge therefor upon the mortgaged lands. R. S. O. 1887, c. 64, s. 24.

Contingent Interests.

Any interest which may be conveyed, etc. under Rev. Stat. c. 119, s. 8, to be liable to execution.

33.—(1) Any estate, right, title or interest in lands which, under section 8 of *The Act respecting the Transfer of Real Property*, may be conveyed or assigned by any person, or over which he has any disposing power which he may, without the assent of any other person, exercise for his own benefit, shall be liable to seizure and sale under execution against such person, in like manner and on like conditions as lands are by law liable to seizure and sale under execution, and the sheriff selling the same may convey and assign the same to the purchaser in the same manner and with the same effect as the person might himself have done.

Except inchoate right of dower

(2) The right of a married woman to dower shall not be deemed seizable or saleable under execution before the death of her husband. R. S. O. 1887, c. 64, s. 25.

CHURCH PEWS AND SITTINGS.

Interest in pew or sitting may be taken in execution and sold.

34.—(1) The interest of any person lawfully derived by deed, lease or license in writing from the wardens or other authorities of any church in a pew or sitting in such church, if such interest is lawfully assignable by the holder thereof, may be sold under judgment and execution at the suit of the said churchwardens or trustees of such church for arrears of any rent or other charge to which such sitting or pew is subject, or which the holder thereof may have agreed to pay or for which he may be lawfully liable, or at the suit of any creditor of such holder, and the churchwardens or other trustees of any such church may become purchasers at such sale on behalf of the church, and may relet or sell the right so acquired.

Deed.

(2) The sheriff may execute a deed to the purchaser of the interest so sold under execution, and such deed shall be effectual to the purchaser: and the churchwardens or trustees shall, on production of such deed, give effect to the same to the extent of the interest so sold, upon payment of any arrears of rent or charges then due.

Subject to rent, etc.

(3) Such sale shall be subject to any continuing rent or charge on such pew or sitting previously stipulated or imposed,

and shall not prejudice the right of the vestry or churchwardens or congregation or trustees to impose increased rent or charges on such pew or sitting pursuant to *The Church Temporalities Act*, or any other law or custom. 60 V. c. 18, s. 1.

SALES AGAINST EXECUTORS.

35. The title and interest of a testator or intestate in real estate may be seized and sold under a judgment and execution recovered by a creditor of the testator or intestate, against his executor or administrator, in the same manner and under the same process that the same could be sold under a judgment and execution against the deceased, if living. R. S. O. 1887, c. 64, s. 26 ; c. 110, s. 14.

Interest in real estate to be seizable on a judgment against an executor.

CHAPTER 78.

An Act to prevent Priority among Execution Creditors.

SHORT TITLE, s. 1.	STATEMENT TO BE KEPT IN SHERIFF'S:
INTERPRETATION, s. 2.	OFFICE PENDING DISTRIBUTION,
NO PRIORITY AMONG EXECUTION	s. 30.
CREDITORS, s. 3.	SHERIFF TO GIVE INFORMATION AS TO
NOTICE TO BE ENTERED BY SHERIFF	ESTATE, s. 31.
AFTER LEVY, s. 4.	DISTRIBUTION BY SHERIFF WHERE
DISTRIBUTION OF MONEY LEVIED, ss.	AMOUNT LEVIED IS INSUFFICIENT
4, 5, 22, 32.	TO MEET ALL CLAIMS, s. 32.
PROCEEDINGS WHERE DEBTOR ALLOWS	DIRECTIONS BY JUDGE TO AVOID UN-
EXECUTIONS TO REMAIN UNSATIS-	NECESSARY PARTIES AND TRIALS,
FIED, ss. 6-21.	s. 33.
PROCEDURE BY SHERIFF ON ATTACH-	DIRECTION BY JUDGE TO SHERIFF
MENT UNDER ABSCONDING DEBT-	WHERE CLAIM IS DISPUTED,
ORS Act, s. 22.	s. 34.
COSTS OF CLAIMANT, s. 23.	DECISIONS TO BIND ALL CREDITORS,
PAYMENT TO SHERIFF OF FUND IN	s. 35.
COURT, s. 24.	SHERIFF TO DEPOSIT MONEYS IN
SHERIFF MAY OBTAIN GOODS IN HANDS	BANK, s. 36.
OF DIVISION COURT BAILIFF,	ATTACHMENT OF DEBTS OWING TO
s. 25.	EXECUTION DEBTOR, s. 37.
APPORTIONMENT WHERE AMOUNTS	APPEAL, s. 38.
LEVIED INSUFFICIENT TO PAY ALL	POWERS OF JUDGE, s. 39.
CLAIMS, s. 26.	DEFECTS OF FORM IN PROCEEDINGS,
LEVYING INTEREST AND COSTS, s. 27.	s. 40.
SHERIFF'S POUNDAGE, s. 28.	FEES PAYABLE TO THE CROWN, s. 41.
MONEY MADE ON ONE WRIT TO BE	ACT NOT TO INTERFERE WITH THE IN-
CONSIDERED MADE ON ALL EN-	SOLVENT LAWS, s. 42.
TITLED TO BENEFIT THEREOF,	
s. 29.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Creditors' Relief Act.*" R. S. O. 1887 c. 65, s. 1.

Interpreta-
tion.
"Sheriff."
"Judge."

2. In this Act the word "sheriff" shall include coroners; the word "Judge" shall mean the Judge of the County Court of the county or district in which the claims are filed, and shall include a Junior or Deputy-Judge, or a Judge of another county authorized to act for the Judge of the County Court in which

the claims are filed. If a Judge is disqualified to act in a matter arising under this Act, the Judge of the County Court of an adjoining county shall have jurisdiction to act in his place. R. S. O. 1887, c. 65, s. 2.

3. Subject to the provisions hereinafter contained, there shall be no priority among creditors by execution from the High Court or County Courts. R. S. O. 1887, c. 65, s. 3.

No priority among execution creditors.

4.—(1) In case a sheriff levies money upon an execution against the property of a debtor, he shall forthwith enter in a book to be kept in his office, open to public inspection without charge, a notice stating that such levy has been made, and the amount thereof; and the money shall thereafter be distributed ratably, amongst all execution creditors and other creditors whose writs, or certificates given under this Act, were in the sheriff's hands at the time of the levy, or who shall deliver their writs or certificates to the said sheriff within one month from the entry of notice; subject, however, to the provisions hereinafter contained as to the retention of dividends in the case of contested claims, and to the payment of the costs of the creditor under whose writ the amount was made.

Sheriff, after levy, to enter notice thereof.

Distribution.

(2) The notice shall state the day upon which it was entered and may be in Form A, given in the Schedule hereto. R. S. O. 1887, c. 65, s. 4 (1, 2).

Form of notice.

(3) The two preceding subsections shall not apply to any moneys received by a Sheriff as the proceeds of a sale of property by him under an interpleader order; but upon the determination of the interpleader issue in favour of the creditors, the moneys whether in the Sheriff's hands or in Court pending the trial of the issue, shall be distributed by the Sheriff among the creditors contesting the adverse claim. 56 V., c. 5, s. 12, (1).

Moneys realized on sale under interpleader order.

(4) Where proceedings are taken by the sheriff or other officer for relief under any provisions relating to interpleader, those creditors only who are parties thereto and who agree to contribute *pro rata* (in proportion to the amount of their executions or certificates) to the expense of contesting any adverse claim, shall be entitled to share in any benefit which may be derived from the contestation of such claim so far as may be necessary to satisfy their executions or certificates. The Court or Judge may direct that one creditor shall have the carriage of the interpleader proceedings on behalf of all creditors interested, and the costs thereof, as between solicitor and client shall be a first charge upon the moneys or goods which may be found by the proceedings to be applicable upon the executions or certificates. R. S. O. 1887, c. 65, s. 4, (3).

Rights of creditors in case of interpleader proceedings.

(5) "Adverse claim" in the next preceding subsection shall mean any claim to contest which an interpleader issue is directed; and upon any interpleader application the Court or Judge shall have a discretion to allow to other creditors who

Meaning of "adverse claim"

desire to take part in the contest, a reasonable time in which to place their executions in the Sheriff's hands, upon such terms as to costs and otherwise as may be just and reasonable. 56 V. c. 5, s. 12, (2).

Provisions in case of subsequent levy.

(6) In case the sheriff shall, subsequently to the entry of the notice, but within the month, levy a further amount from the property of a debtor, the same shall be dealt with as if such amount had been levied prior to the entry of the notice, but if after the month a further amount is levied a new notice shall be entered; and the distribution to be made of the amount so levied and of the further amount levied within a month of the entry of the last mentioned notice shall be governed by the entry thereof in accordance with the foregoing provisions of this section; and so on from time to time. R. S. O. 1887, c. 65, s. 4 (4).

No preference in respect of writ against goods or lands.

(7) In distributing money under this section creditors who have executions against goods or lands only or against goods and lands shall be entitled to share ratably with all others any moneys realized under execution against either goods or lands or against both. 51 V. c. 11, s. 2. See 57 V. c. 26, s. 1.

[As to rights of employees of execution debtors in respect of wages, see Chap. 156, Sec. 4.]

Certain creditors excluded.

5. No creditor shall be entitled to share in the distribution of money levied from the property of a debtor unless either by the delivery of a writ of execution, or otherwise under this Act, he has established a claim against the debtor either alone or jointly with some other person. R. S. O. 1887, c. 65, s. 5.

Proceedings where debtor allows execution to remain unsatisfied.

6. If a debtor permits an execution issued against him under which any of his goods or chattels are seized by a sheriff, to remain unsatisfied in the sheriff's hands till within two days of the time fixed by the sheriff for the sale thereof, or for twenty days after the seizure, or allows an execution against his lands to remain unsatisfied for nine months after it is placed in the sheriff's hands, the proceedings hereinafter authorized may be taken by other creditors as claimants in respect of debts which are overdue. R. S. O. 1887, c. 65, s. 6.

Affidavit by creditor.

7.—(1) An affidavit to the effect of Form B, in the Schedule to this Act, of the debt and the particulars thereof, may be made in duplicate by the creditor, or by one of the creditors in case of a joint debt, or by a person cognizant of the facts. Prior to or simultaneously with the filing with the clerk of the County Court of the affidavit, there shall be filed with the clerk the certificate of the sheriff, or an affidavit, shewing that such proceedings have been had against the debtor as entitle the creditor to proceed under this Act.

Service on debtor.

(2) The claimant is to serve on the debtor one of the duplicates, and a notice stating that the claimant intends to file the other duplicate with the clerk of the County

Court by reason of there being in the sheriff's hands a writ of execution against the goods and chattels (or lands) of the debtor, and that the claimant intends to call on the sheriff to levy the said debt out of the property of the debtor under the authority of this Act; which notice is to contain the other particulars, shown in the Form C, given in the Schedule to this Act. The notice may be either attached to the affidavit served, or endorsed thereon; where the affidavit is to be served out of Ontario the Judge shall limit the time at which the next step may be taken by the claimant as hereinafter provided. R. S. O. 1887, c. 65, s. 7.

8.—(1) An execution debtor may give notice in writing to the sheriff that any claims to be served upon him may be served upon any solicitor in the Province, whose name and address shall be given, or by mailing the same to an address stated in the notice: the sheriff shall thereupon enter the notice in the said book in section 4 mentioned, and so long as any execution, which was in the sheriff's hands at the time the notice was given shall remain in his hands, shall repeat such entry immediately below any notice (Form A) given in respect of the execution, unless the notice be revoked in writing, in which case the entry or entries thereof shall be marked "revoked."

Notice by debtor of address for service.

(2) So long as the notice is not revoked in manner aforesaid an affidavit of claim and accompanying notice under this Act, may, where a solicitor is named, be served upon an execution debtor by serving the same upon the solicitor in accordance with this Act, or if mailing is required, then by mailing the same, enclosed in an envelope, prepaid and registered, to the address given in the notice.

Service of affidavit of claim with notice.

(3) In case the notice (Form C) served on a debtor does not state some place in or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon the claimant, or does not give the name and address of some solicitor in the Province who may be served on the claimant's behalf, service of any notice, paper or document requiring service may be made upon the claimant by mailing the same, prepaid and registered, enclosed in an envelope addressed to the claimant at the county town.

Service on claimant where no address given.

(4) The claimant shall file with the clerk of the County Court of the County, the sheriff of which has the execution, one of the said duplicate affidavits of claim, and a copy of the said notice, with an affidavit of due service; which affidavit may be in the Form D.

Affidavit to be filed with clerk of county court.

(5) The copy of affidavit and the notice shall, where practicable, be personally served upon the debtor; but if it be made to appear to a Judge that the claimant is unable to effect prompt personal service, the Judge may order substituted or other service, or may appoint some act to be done which shall be deemed sufficient service. R. S. O. 1887, c. 65, s. 8.

Mode of service.

Certificate to be given to creditor where claim not disputed.

9.—(1) If the claim is not contested in manner hereinafter mentioned, the County Court Clerk—after ten days from the day of personal service, or service under subsection 2 of section 8, or within the time mentioned in the order (as the case may be), on application and the filing with him of proof of personal service upon the debtor of an affidavit and notice in accordance with this Act, or proof of compliance with a Judge's order in that behalf, or upon the determination of the dispute in favour of the claimant, either in whole or in part—shall deliver to the creditor, or any one on his behalf, a certificate to the effect of Form E, in the Schedule hereto; and in case the claim is only disputed as to a part, the creditor may elect, by a writing filed with the clerk, to abandon such part and obtain a certificate as to the residue.

Effect of certificate.

(2) The certificate shall be delivered to the sheriff, and thereby from the time of the delivery the claimant shall be deemed to be an execution creditor within the meaning of this Act, and to be entitled to share in whatever is made under the executions of creditors in the sheriff's hands, as if he had delivered to the sheriff an execution against lands or goods, or both, as the case may be, and the certificate shall in like manner bind the lands and goods of the debtor; subject, however, to the debt being afterwards disputed by a creditor as hereinafter provided.

Certificate an execution for interpleader purposes.

Address for service to be endorsed on certificate.

(3) A certificate under this Act shall in interpleader proceedings be deemed to be an execution.

(4) If the certificate is obtained by a solicitor, the name and place of abode of the solicitor shall be endorsed thereon; and if the certificate is sued out by the claimant in person there shall be endorsed thereon a statement of some place in, or within three miles of the county town of the county in which the proceedings are being taken, at which service may be made upon the claimant; and, in default thereof, service of any notice, paper or document requiring service, may be made upon the claimant by mailing the same, prepaid and registered, enclosed in an envelope addressed to the claimant at the county town.

On receipt of certificate sheriff to make further levy.

(5) On receiving the certificate the sheriff shall make a further seizure of the lands and tenements, or goods and chattels, as the case may be (if any), of the debtor to the amount of the debt so claimed, and the sheriff's fees; and so on from time to time in case more certificates are received after the further seizure so made. R. S. O. 1887, c. 65, s. 9.

Time certificate to remain in force.

(6) A certificate issued under this Act shall remain in force for three years from the date thereof and no longer, unless renewed, but such certificate may from time to time be renewed in the same manner as a writ of execution, but notwithstanding the expiry of a writ or certificate prior to the termination of the month during which a notice of money having been made is under this Act required to be posted, the said writ and certificate shall, as to any money levied during such month, be deemed to be in full force and effect. R. S. O. 1887, c. 65, s. 29 (2); 60 V. c. 14, s. 91.

10.—(1) The claim may be contested by the execution debtor or by a creditor interested in contesting the same. Disputing claim.

(2) If the debtor contests the claim, he shall for that purpose file with the clerk an affidavit stating that he has a good defence to the claim, or to a specified part of the claim on the merits, but the Judge may dispense with the affidavit on terms or otherwise. Affidavit of debtor.

(3) The debtor shall file the affidavit and serve upon the claimant a copy thereof within ten days after the personal service, or service under subsection of 2 section 8, upon him of the affidavit of claim and the notice, or within the time which the Judge by an order dispensing with personal service directed, or within any further time which the Judge may allow: the affidavit shall have endorsed thereon a statement of some place in, or within three miles of, the county town of the county in which the proceedings are being taken, at which service may be made upon the debtor, or the address of some solicitor in the Province who may be served on the debtor's behalf, and in default thereof, service of any notice, paper, or document requiring service, may be made upon the debtor by mailing the same, prepaid and registered, enclosed in an envelope addressed to the debtor at such county town. Filing and service of affidavit.

Address for service.

(4) If the contest is by a creditor, he shall for that purpose file with the clerk an affidavit to the effect that he has reason to believe that the debt claimed is not really and in good faith due from the debtor to the claimant; but the Judge may dispense with the affidavit on terms or otherwise. Creditor disputing claim.

(5) Such affidavit by a creditor may be so filed, and a certificate thereof delivered to the sheriff, at any time before distribution is made. R. S. O. 1887, c. 65, s. 10. Time for filing affidavit.

11.—(1) In case of a claim being contested by a creditor after a certificate has been placed in the sheriff's hands, the sheriff, unless the Judge otherwise orders, shall proceed and levy as if such contestation had not been made, and the sheriff shall, until the determination of the contestation, retain in the bank the amount which would be apportionable to the claim if valid, and he shall, as soon after the expiry of the said month as practicable, distribute the residue of the money made amongst those entitled. Distribution by sheriff in case of contestation.

(2) The claimant whose claim is contested may apply to a Judge for an order allowing his claim and determining the amount; and in case he does not make such application within eight days of his receiving notice of the contestation (or within such further time, if any, as the Judge upon the delay being reasonably accounted for may allow), he shall be taken to have abandoned his claim; if the contestant is a creditor and there is reason to believe that the contestation is not being carried on in good faith, any other creditor may apply for an order permitting him to intervene in the contest. R. S. O. 1887, c. 65, s. 11. Proceedings to enforce claim.

Mode of determining questions in dispute.

12.—(1) The Judge may determine any questions in dispute in a summary manner, or may direct an action or issue, in any Court or county, for the trial thereof, and may make such order as to the costs of the proceedings as may be just.

Where sum in dispute is over \$400.

(2) Where there is a dispute as to material facts, and the sum in controversy appears to be over \$400, exclusive of costs, the Judge shall direct the trial to be in the High Court and may name the county in which the trial is to take place, subject to any order which the High Court or a Judge thereof may see fit to make in that behalf. In case an issue is directed it shall be tried in all respects as if it had been an action in the Court in which it was ordered to be tried. R. S. O. 1887, c. 65, s. 12.

Examination of parties.

13. The same proceedings may be had for the examination of parties or others, either before or at the trial, as may be taken in an ordinary action, and such proceedings, may also be taken prior to the application to the Judge, and as a foundation therefor. R. S. O. 1887, c. 65, s. 13.

Proceedings by creditor who has obtained a division court judgment.

14. A creditor who has recovered a judgment in a Division Court against the debtor may serve upon the sheriff a memorandum of the amount of his judgment and of the costs to which he is entitled, under the hand of the clerk and the seal of the Division Court; and the memorandum so served shall have the same effect for the purposes of this Act as if the creditor had delivered to the sheriff a writ of execution directed to the said sheriff from a County Court. R. S. O. 1887, c. 65, s. 14

Establishing claim in another county.

15. Where a creditor has taken in one county the prescribed proceedings in respect of his claim, and desires to establish his claim for the purposes of this Act in another county also, he may do so by obtaining from the said County Court Clerk another certificate (Form E), and delivering the same to the sheriff of such other county, and the delivery of the certificate to the sheriff shall have the same effect for the purposes of this Act in the county in which the same takes place, from the day of the delivery, as if a new notice and affidavit of claim had been served for the county and other proceedings had in respect thereof under the previous provisions of this Act. R. S. O. 1887, c. 65, s. 15.

Writs may be sued out into any county.

16. A creditor, entitled to a certificate from the County Court Clerk, may sue out a writ of execution into any county in the same manner as on an ordinary judgment. R. S. O. 1887, c. 65, s. 16.

Decision in one county binding in others.

17. In case a claim is contested in one county, the decision thereon shall, as between the parties to it, determine the amount of the claim for the purposes of this Act in all other

counties in which the claim is filed, and the certificate of the Clerk of the County Court of the county in which the contest has taken place, of the result thereof, shall be *prima facie* proof of the decision. A certificate shall, upon payment of a fee of fifty cents, be granted to any party to the proceedings who applies therefor. R. S. O. 1887, c. 65, s. 17.

18.—(1) The clerk of the County Court shall keep a book in which, before granting a certificate or issuing an execution for a claim, he shall enter the following particulars with reference to every claim in respect of which he gives a certificate under this Act ;

Clerk of county court to keep book of record.

- (a) The name of every claimant, and of every debtor ;
- (b) The date of entry of judgment ;
- (c) The amount of debt, exclusive of costs ;
- (d) The amount of costs ;
- (e) If the proceedings have been set aside, this fact, and shortly the reason therefor ;

(2) The entry shall (subject to the provisions of this Act) be an award of judgment for the debt and costs, and shall have the same effect as an entry of judgment for non-appearance to a specially endorsed writ. The clerk shall index the entries in the book alphabetically under the name of every debtor.

Effect of entry.

Index.

(3) In case the original papers happen to be lost or destroyed, a copy of the entry in the book shall be evidence of all matters therein set forth. R. S. O. 1887, c. 65, s. 18.

Copy of entry evidence.

19.—(1) With respect to claims, the Judge, before or after a certificate is issued by the clerk under this Act, or delivered to the sheriff, may, on the application of the debtor, and notice to a claimant, give to the debtor further time to pay the claim where the Judge is of opinion that this can be done without injustice to the creditor, or may give to the debtor further time on terms which in the opinion of the Judge may be just. There may be successive orders for this purpose, but no claim shall be delayed by such orders for more than three months in all.

Granting time to debtor.

(2) This section shall not apply to creditors who have obtained judgment in the ordinary way ; and the orders for time are not to prejudice executions obtained by such creditors on such judgments. R. S. O. 1887, c. 65, s. 19.

Preceding subsection not to apply in certain cases.

20.—(1) In case the debtor, without any sale by the sheriff, pays the full amount owing in respect of the executions and claims in the sheriff's hands at the time of such payment, and no other claim has been filed with the Clerk of the County Court, or in case all executions and claims in the sheriff's hands are withdrawn, and any claims served are paid or withdrawn, no notice shall be entered as required by section 4 of this Act,

Payment by debtor before sale.

and no further proceedings shall be taken under this Act against the debtor by virtue of the executions having been in the sheriff's hands. R. S. O. 1887, c. 65, s. 20 (1); 51 V. c. 11, s. 3.

Effect of
expiry or with-
drawal of
writs.

(2) Save as aforesaid, after a certificate has been filed with the sheriff, the withdrawal or expiry of the writ, upon which the proceedings are founded, or any stay upon the writ, or the satisfaction of the plaintiff's claim thereon, or the setting aside or return of the writ, shall not affect the proceedings to be taken under this Act, and except so far as the action taken in regard to the writ may affect the amount to be levied, the sheriff shall proceed and levy upon the goods or lands of the debtor, or both, as he would have proceeded had the writ or writs remained in his hands in full force to be executed, and he may also take the like proceedings as he would have been entitled to take had the writ been a writ of *venditioni exponas*. R. S. O. 1887, c. 65, s. 20 (2).

Application of
moneys paid
by debtor to
sheriff volun-
tarily.

(3) In case a debtor voluntarily, and without any sale by the sheriff, pays to the sheriff part of the amount owing, in respect of an execution or claim in the sheriff's hands, and there is at the time no other execution or claim in the sheriff's hands, the sheriff shall apply the same on the execution or claim so in his hands, and section 4 of this Act shall not apply to the money so received by the sheriff. 52 V. c. 10, s. 7.

Service on
Toronto agent

21. Where the address of a solicitor is given for service, and is not within three miles of the county town where the proceedings are carried on, service may be made upon him by serving his agent in Toronto. R. S. O. 1887, c. 65, s. 21.

Proceedings
on attach-
ment.

Rev. Stat.
c. 79.

22. If either before or after the receipt by the sheriff of an execution against the goods or lands of a debtor, a writ of attachment under *The Act respecting Absconding Debtors* is placed in the hands of the sheriff before he distributes the estate of the debtor, the sheriff shall realize the estate of the debtor, as provided by *The Act respecting Absconding Debtors*, but the same when so realized shall be distributed under the provisions of this Act. R. S. O. 1887, c. 65, s. 22.

Costs of claim-
ant.

23. The clerk shall ascertain and state in his said certificate, the amount of the costs to which the claimant is entitled as against the debtor. Such costs shall be the following:

1. For serving the affidavit of claim, to be allowed upon the scale of the High Court in the case of claims over \$400, and on the County Court scale in the case of claims exceeding \$200 and not exceeding \$400, and on the Division Court scale in the case of claims of \$200 and under;

2. If the claim does not exceed \$200 no greater fees are to be allowed for service of the claim and notice and mileage in respect thereof, than would be allowable to the Division Court

bailiff for the service of a Division Court summons and mileage if the claim had been sued in the proper Division Court ;

3. The fees paid to the County Court Clerk under this Act shall also to be allowed, which fees shall be the same as he is allowed for like proceedings in the County Court, unless the claim appears to be within the jurisdiction of the Division Court, in which case his fees shall be those allowed for like proceedings in the Division Court ;

4. Where there is no contest the sum of \$5 for fees of a solicitor (if employed), unless the amount of the claim is within the jurisdiction of the Division Court, in which case the sum of \$2 only shall be allowed ;

5. In case of a contest, such additional costs (if any) as the Judge may allow, to be taxed according to the scale of the High Court, County Courts, or Division Courts, according as the amount in dispute is within the jurisdiction of one or other of these Courts ;

6. The costs of obtaining an order for substituted service or other similar order and of such service, or the costs of and incidental to service out of the Province, in either case to be taxed by the clerk of the Court, and stated in his certificate aforesaid ; if the claim is within the jurisdiction of the Division Court, only such a sum to be allowed for costs as would have been incurred in obtaining a judgment in the Division Court. R. S. O. 1887, c. 65, s. 23.

24. Where there is in any Court a fund belonging to an execution debtor, or to which he is entitled, the same, or a sufficient part thereof to meet the claims in the sheriff's hands, may, on the application of the sheriff or any party interested, be paid over to the sheriff, and the same shall be deemed to be money levied under execution within the meaning of this Act. R. S. O. 1887, c. 65, s. 24.

Payment to
sheriff of fund
in court.

25.—(1) If the sheriff does not find property of a debtor leviable under the executions and claims in his hands sufficient to pay the same in full, and the sheriff finds goods and chattels in the hands of the bailiff of a Division Court under a writ of execution or attachment against the debtor, the sheriff shall demand and obtain the goods and chattels from the bailiff, who shall forthwith deliver the same to the sheriff, with a copy of every writ of execution in his hands against the debtor, and a memorandum shewing the amount to be levied thereunder, including the bailiff's fees so far as proceedings have been taken by him, and shewing the date upon which each writ was received by him.

Sheriff may
obtain goods
in hands of
division court
bailiff.

(2) In case the bailiff fails to deliver any of the goods, he shall pay double the value of the property retained, such double value to be recovered by the sheriff from the bailiff with costs of suit, and to be by the sheriff accounted for as

Penalty if
bailiff fails to
deliver.

part of the estate of the debtor. R. S. O. 1887, c. 65, s. 25 (1, 2).

Bailiff's fees when goods in his possession are taken by sheriff.

(3) The costs and disbursements of the bailiff shall be a first charge upon the goods, and shall be paid by the sheriff to the bailiff upon demand, after being taxed by the Division Court Clerk. 52 V. c. 12, s. 7, part.

Distribution.

(4) The sheriff shall distribute the proceeds among the creditors under the provisions of this Act, and the Division Court execution creditors shall be entitled, without further proof, to stand in the same position as execution creditors whose writs are in the sheriff's hands. R. S. O. 1887, c. 65, s. 25 (3).

Mode of apportioning money where amount insufficient to pay claims in full.

26. Where the amount levied by the sheriff is not sufficient to pay the execution debts and other claims, with costs, in full, the money shall be applied to the payment ratably of such debts and costs of the creditors, after retaining the sheriff's fees, and after payment in full of the taxed costs and the costs of the execution to the creditor at whose instance and under whose execution the seizure and levy were made. R. S. O. 1887, c. 65, s. 26.

Levying interest and costs of renewing certificate.

27. The sheriff, if directed by an endorsement upon the certificate, shall, in addition to the amounts named in the certificate, levy interest thereon from the date of the certificate, or the date named in that behalf in the certificate, and also the sum of \$1.35 for the disbursements on every renewal of the certificate: and where such renewal is made upon the application of a solicitor, he shall levy the further sum of \$1.25 for the solicitor's costs on the renewal. R. S. O. 1887, c. 65, s. 27.

Sheriff's poundage.

28. Where money is to be distributed by a sheriff under this Act, the sheriff shall not be entitled to poundage as upon separate writs or claims, but only upon the net proceeds of the estate distributable by him, and at the same rate as if the whole amount had been payable upon one writ. R. S. O. 1887, c. 65, s. 28.

Money made on any writ to be considered as made on all writs entitled to benefit thereof.

29.—(1) Where money is made upon a writ, the same shall be taken for the purposes of the sheriff's return, and otherwise to be made upon all the writs or certificates entitled to the benefit thereof, and the sheriff shall, upon payment being made to the person entitled upon such writ or certificate, endorse thereon a memorandum of the amount so paid, but he shall not, except on the request of the party issuing the writ, or by direction of the Court out of which the same issues, or of a Judge having the authority of a Judge of such Court, return the writ until the same has been fully satisfied, or unless the same has expired by effluxion of time, in which case the sheriff shall make a formal return of the amount made thereon. R. S. O. 1887, c. 65 s. 29 (1).

Return.

(2) The like proceedings may be taken to compel payment by the sheriff of money payable in respect to an execution or other claim as can now be had to compel the return by the sheriff of a writ of execution. R. S. O. 1887, c. 65, s. 29 (3). Compelling payment by sheriff.

30. The sheriff shall, pending the distribution of moneys levied, keep, in the said book mentioned in section 4, in his office, a statement according to Form F in the Schedule hereto, shewing, in respect of any debtor of whose property money has been levied, the following particulars :— Statement to be kept in sheriff's office pending distribution.

(a) The amounts levied and the dates of levy ;

(b) Each execution, certificate, or order in his hands at the time of entering the notice Form A required by section 4, or subsequently received during the month, the amount thereof for debt and costs, and the date of receipt, and such statement shall be amended from time to time as an additional amount is levied, or a new execution, certificate or order is received. R. S. O. 1887, c. 65, s. 30.

31. The sheriff shall at all times without fee answer any reasonable question which he may be asked orally in respect to the estate of the debtor by a creditor, or any one acting upon behalf of a creditor, and shall facilitate the obtaining by him of full information as to the value of the estate, and the probable dividend to be realized therefrom in his county, or any other information in connection with the estate which the creditor may reasonably desire to obtain. R. S. O. 1887, c. 65, s. 31. Sheriff to give information as to estate of debtor.

32. Where the money levied is insufficient to pay all claims in full, and the time has come for distributing the money levied, the sheriff may forthwith distribute the same as directed by this Act ; or he may first prepare for examination by the debtor and his creditors a list of the creditors entitled to share in the distribution of the amount levied, with the amount due to each for principal, interest and costs ; the list to be arranged so as, among other things, to shew the amount going to each creditor under the provisions of this Act, and the total amount to be distributed ; and the sheriff may deliver, or send (prepaid and registered) by post to each creditor or his solicitor, a copy of the list, with the several particulars aforesaid ; and in such case the further proceedings may be as follows : Distribution by sheriff where amount levied insufficient to meet all claims.

1. If within eight days after all the said copies have been delivered or posted, or within any further time the Judge may allow, no objection is made as provided by this Act, the sheriff shall make distribution forthwith pursuant to such list ;

2. In case an objection is made as provided by this Act, the sheriff shall forthwith distribute such an amount of the

money made, and to such persons *pari passu*, as may not interfere with the effect of the objection in case the same should be allowed ;

3. The sheriff may disregard objections which are frivolous, or manifestly insufficient to interfere with the distribution proposed, and distribute as if such objections had not been made ;

Contestation.

4. Any person prejudiced by the proposed scheme of distribution, may contest the same in manner following, namely, by giving a notice in writing to the sheriff, stating therein distinctly his objection to the scheme (or any part thereof) and the grounds of objection, and by, at the same time, delivering to the sheriff an affidavit of previous service of a copy of the notice on the debtor and the creditors interested in resisting the objection, unless the Judge shall by order have dispensed with service, or on affidavit of service as the Judge shall have sanctioned ;

5. The contestant shall, within eight days thereafter, apply upon notice to the Judge for an order adjudicating upon the matter in dispute ; and otherwise the contestation shall be taken to be abandoned. The notice may be in the Form G in the Schedule hereto ;

6. The Judge may determine any questions in dispute in a summary manner, or may direct an issue or action for the trial thereof, either by a jury or otherwise and in any Court or county, and may make such order as to the costs of the proceedings as may be just. This subsection is subject to the same provisions as are set forth in subsection 2 of section 12 of this Act ;

7. In the event of a claimant under a contestation being held not entitled, or only entitled to part of his claim, the money retained pending the contestation, or the portion as to which the claimant shall have failed, shall be distributed among the execution creditors and other creditors who would have been entitled thereto, as the same would have been distributed had the claim in respect thereof not been made. R. S. O. 1887, c. 65, s. 32.

Directions by Judge to avoid unnecessary parties and trials.

33. In case several creditors are interested in a contestation, either for or against the same, the Judge shall give such directions for saving the expense of an unnecessary number of parties and trials, and of unnecessary proceedings, as may be just, and he shall direct by whom and in what proportions any costs incurred in the contestation, or in any proceedings thereunder, shall be paid ; and whether any and what costs shall be paid out of the money levied. R. S. O. 1887, c. 65, s. 33.

Direction by Judge to sheriff where claims disputed.

34.—(1) The Judge may, if he sees fit, direct the sheriff to levy for an amount sufficient to cover a claim which is in

dispute, or part thereof, or in case it appears to the Judge that it is improbable that the defendant has other sufficient property, he may order the sheriff to retain in his hands during the contestation the share which, if the claim is sustained, will be apportionable to it, or may make an order combining the orders above authorized, or such similar order as may be just.

(2) An order to levy under this section shall clothe the sheriff with the same authority as he would possess under a writ of execution, duly issued against the debtor, directing the sheriff to levy the like amount out of the goods and lands of the debtor. R. S. O. 1887, c. 65, s. 34.

35. The decision under this Act of a County Court Judge, or a Divisional Court on an appeal, shall bind all creditors, unless it appears that the decision was obtained by fraud or collusion by the parties to the contestation. R. S. O. 1887, c. 65, s. 35; 59 V. c. 18, Sched. (38). Decisions to be binding on all creditors.

36. In case a sheriff has money in his hands, which, by reason of the provisions of this Act, or otherwise, he cannot immediately pay over to the execution creditors, or other claimants under this Act, he shall deposit the money, whenever the same amounts to \$100, in some incorporated bank designated for this purpose from time to time by order of the Lieutenant-Governor in Council, or where there is no such bank, then in some incorporated bank in which public money of the Province is then being deposited: the deposit to be made in the name of the sheriff, but to a special account in his name as "Trustee for the creditors of _____" (the debtor). R. S. O. 1887, c. 65, s. 36. Sheriff to deposit moneys in bank.

37.—(1) Where there are in the sheriff's hands several executions and claims, and there are not, or do not appear to be, sufficient lands or goods, as the case may be, to pay all and his own fees, he may apply for an order attaching any debt owing to the execution debtor by any person resident in the county of such sheriff, whether the debt is owing by such person alone or jointly with another person resident or not resident in such county, and to procure the attachment the sheriff may take the same proceedings as a creditor: and in such case a writ of execution, or other writ in the course of the proceedings, may be directed to him in the same manner as if the attachment were by a creditor; and the proceeds of the debts attached shall be distributed in the same manner as if he had realized the same under execution. Attaching orders by sheriff or creditors.

(2) In case the sheriff does not take such proceedings, any person entitled to distribution may take the same for the benefit of himself and all other persons entitled to distribution as aforesaid, and the person owing the attached debt shall pay the same to the sheriff.

(3) Any judgment creditor who attaches a debt shall be deemed to do so for the benefit of himself and all creditors entitled under this Act; payment of such debt shall be made to the sheriff, who in making distribution shall apportion to such judgment creditor a share *pro rata*, according to the amount owing upon his judgment, of the whole amount to be distributed under the provisions of this Act, but such share shall not exceed the amount recovered by the garnishee proceedings unless the judgment creditor has placed a writ in the sheriff's hands.

(4) Money garnished and paid into the sheriff's hands shall be deemed to be money levied under execution, within the meaning of this Act, except that, unless the garnishee proceedings were taken by him, the sheriff shall only be entitled to charge poundage on such moneys at the rate of one and a quarter per cent.

(5) The provisions of subsections 3 and 4 of this section shall also apply, as nearly as may be, to any person who attaches a debt in the Division Court before judgment, and to the money so attached.

(6) In case a garnishee, under an order of the Court, pays to the attaching creditor, or in case a garnishee, without notice that the sheriff is entitled, pays the amount of his debt into Court and the same is paid out to the said creditor, the sheriff may recover from him the amount so received. R. S. O. 1887, c. 65, s. 37.

Appeal.

38. If any party to any contestation, matter or thing upon which a Judge has made or rendered any final order or judgment, is dissatisfied with such order or judgment, and the same is in respect to a question involving a sum greater than \$100, he may appeal therefrom to a Divisional Court of the High Court, subject to the like practice, as nearly as may be, as is from time to time in force in respect of appeals from a County Court or Judge, unless and until Rules establishing a different practice shall be made under the provisions of sections 122 and 125 of *The Judicature Act*, which shall apply to this Act. R. S. O. 1887, c. 65, s. 38, part; 59 V. c. 18, Sched. (39).

Rev. Stat.
c. 51.

Powers of
judge.

39. A Judge for the purpose of giving effect to this Act and carrying out its provisions shall have all the powers which a County Court or a Judge thereof has by law for other purposes; and any proceedings wrongly taken under this Act may be set aside by the Judge, with or without costs as he thinks fit. R. S. O. 1887, c. 65, s. 40.

Defects of
form.

40. No proceeding under this Act shall be void for any defect of form; and the Rules, for amending or otherwise curing irregularities or defects, which may from time to time be in force in the County Courts shall apply to this Act. R. S. O. 1887, c. 65, s. 41.

41. Besides the fees otherwise authorized to be paid to the Clerk of the County Court for his own use, the following fees shall be levied on the following proceedings under this Act upon all claims filed, where the amount of the claim exceeds \$200, and the same shall be payable to the Crown in stamps, subject to the provisions of *The Act respecting Law Stamps* :—

	\$	cts.
On an affidavit of claim, where the amount claimed exceeds \$200 but does not exceed \$400.....	0	75
On every such affidavit where the claim exceeds \$400..	1	50
On every certificate of clerk given under section 9, where the claim exceeds \$200, but does not exceed \$400..	0	75
On every such certificate where the claim exceeds \$400.	1	50
On every order made by the Judge allowing or disallowing a claim, where the claim exceeds \$200, but does not exceed \$400	0	50
On every such order where the claim exceeds \$400...	1	00

Where the claim is contested ; on the proceedings after the order, the same fees as are now payable on like proceedings in the High Court. R. S. O. 1887, c. 65, s. 42.

42. This Act is not intended to interfere with the Insolvency Laws which may from time to time be in force in this Province, but this Act is intended to be subject to such laws, and subject as aforesaid to apply to all debtors whether solvent or not. R. S. O. 1887, c. 65, s. 43.

Act not to interfere with Insolvency Laws.

SCHEDULE.

FORM A.

(Section 4 sub.-s. 2.)

SHERIFF'S NOTICE.

Notice is hereby given that I have, by virtue of certain executions delivered to me against the goods and chattels and lands and tenements (or as the case may be) of C.D., levied and made out of the property of the said C. D., the sum of \$
And notice is further given that this notice is first posted in my office on the first day of May, 18 , and that distribution of the said money will be made amongst the creditors of the said C. D. entitled to share therein, at the expiration of one month from the said first day of May.

F. G.,
Sheriff.

FORM B.

(Section 7, sub-s. 1.)

AFFIDAVIT OF CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of _____ [state
county or united counties in which it is intended proceedings shall be
taken].

A. B. Claimant,

vs.

C. D. Debtor.

I, A. B., of _____ in the county of _____
Merchant (or as the case may be) make oath and say :—

1. I am the above named claimant (or the duly authorized agent of the
claimant in this behalf, and have a personal knowledge of the matter
hereinafter deposed to).

2. The above named debtor is justly and truly indebted to me (or to the
above named claimant) in the sum of \$ _____ for [here state
shortly the nature and particulars of the claim as they are required to be
stated upon a specially endorsed writ].

Sworn before me at
this _____ day of
A. D. 18 _____

}

R. S. O. 1887, c. 65, Sched. Form B.

FORM C.

(Section 7, sub-s. 2.)

NOTICE TO BE SERVED WITH CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of _____

A. B. Claimant,

vs.

C. D. Debtor.

To the above (or within) named debtor.

Take notice that the claimant intends to file with the clerk of the
County Court of _____ (or as the case may be)
the original affidavit of claim of which a duplicate is served herewith, and
that this proceeding is taken by reason of there being in the hands of the
sheriff of the said county (or united counties) a writ of execution against
your goods and chattels and lands and tenements (or as the case may be),
and that the claimant intends to call on the sheriff to levy the amount of
the said debt from your property under the authority of *The Creditors'*
Relief Act.

And further, take notice that in case you desire to contest the said
claim, or any part thereof, you must, within ten days after the service of
this notice upon you, file with the clerk of the said Court an affidavit
stating that you have a good defence to the said claim on the merits, or
that you have such defence to a specified part of the claim, otherwise such
claim will be treated as admitted by you, or may be so treated as to the
part not contested.

You are further hereby notified that unless you endorse upon such
affidavit filed by you a statement of some place in, or within three miles
of the county town of the said county (or united counties) at which service

may be made upon you, or the address of some solicitor in the Province of Ontario who may be served on your behalf, service may be made upon you of any notice, paper, or document requiring service, by mailing the same enclosed in an envelope addressed to you at the said county town.

NOTE.—In case the above notice is endorsed upon the copy of the affidavit served, the heading of the notice may be omitted. Where further time is given by a Judge, the notice should be varied accordingly.

R. S. O. 1887, c. 65, Sched. Form C.

FORM D.

(Section 8, sub-s. 4.)

AFFIDAVIT OF SERVICE OF CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of

A. B. Claimant,

vs.

C. D. Debtor.

I, *G. H.*, of _____ in the county of _____ make
oath and say :—

1. That I did, on the _____ day of _____ personally serve C. D., the above named debtor, with an original affidavit identical with the annexed affidavit, and that there was at the time the said affidavit was so served, attached to (or endorsed upon) the said affidavit so served a true copy of the notice addressed to the debtor, now attached to (or endorsed upon) the said annexed affidavit.

Sworn before me at
this day of
A. D. 18

R. S. O. 1887, c. 65, Sched. Form D.

FORM E.

(Section 9, sub-s. 1 and section 15.)

CERTIFICATE OF PROOF OF CLAIM.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of

A. B. Claimant,

v's.

C. D. Debtor.

I, _____, clerk of the County Court of the _____ County of _____, do hereby certify that the above named claimant did on the _____ day of _____ file with me a claim against the above named debtor, for the sum of _____ together with an affidavit of personal service thereof (or *as the case may require*) and of the notice required by *The Creditors' Relief Act*, upon the said debtor, and that it thereby appears that such service was made upon the said debtor on the _____ day of _____ 18____.

And I further certify that the debtor has not contested the said claim (or, has only contested the sum of _____ portion of the said claim, or as the case may be), and that the claimant is entitled to the sum of _____ against the said debtor and the further sum of _____ for costs.

R. S. O. 1887, c. 65, Sched. Form E.

FORM F.

(Section 30.)

SHERIFF'S STATEMENT OF EXECUTIONS ON HAND AGAINST C. D.

CAUSE.	Proceeding.	Claim without Costs.	Costs.	Date of receipt by Sheriff.	Amount Levied.	Date of Levy.
		\$	\$		\$	
A. B. v. C. D.	Fi. fa. goods and lands ..	504	30	18th Feb., 1886 ..	500	1st May, 1886.
F. G. v. C. D. & E. G. }	Fi. fa. goods and lands ..	400	20	1st March, 1886. ...	300	3rd May, 1886. Nothing made against E. G.
K. L. v. C. D.	Garnishee order	500	30	.....	300	10th May, 1886.
M. N. v. C. D.	Creditor's Certificate	400	5	15th May, 1886.		

R. S. O. 1887, c. 65, Sched. Form F.

FORM G.

(Section 32, sub-s. 5.)

CONTESTATION OF SCHEME OF DISTRIBUTION.

THE CREDITORS' RELIEF ACT.

In the County Court of the County of

A. B. Claimant,

vs.

C. D. Debtor.

To F. G. and M. N., claimants of moneys levied by the Sheriff of the County of
out of the estate of C. D.

Take notice that I will on the _____ day of _____ next, apply to the Judge of the County Court of the County of _____ at his chambers at the court house in the town of _____ for an order adjudicating upon the right of you the said _____ to rank upon the said moneys for any amount whatever (*or as the case may be*); and further take notice that I will, upon the said application, read the affidavits of E. F. and X. Y., filed with the clerk of the said Court.

Dated etc.

R. S. O. 1887, c 65, Sched. Form G.

CHAPTER 79.

An Act respecting Absconding Debtors.

ABSCONDING DEBTOR DEFINED, s. 1.	SALE OF CHATTELS, s. 10.
PROCEDURE TO OBTAIN ATTACHMENT, ss. 2, 3.	ATTACHMENT OF DEBTS DUE TO THE ABSCONDING DEBTOR, ss. 11, 12.
WHAT PROPERTY MAY BE ATTACHED, s. 4.	ACTIONS BY SHERIFF FOR OUTSTAND- ING DEBTS, ss. 13-17.
PERISHABLE PROPERTY, ss. 5, 6.	DISTRIBUTION OF PROCEEDS, ss. 18, 19.
DIVISION COURT ATTACHMENT SUPER- SEDED, s. 7.	SURPLUS TO BE RESTORED TO DEBTOR, s. 20.
SHERIFF'S COSTS, ss. 8, 9.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. If a person resident in Ontario indebted to any other person, departs from Ontario with intent to defraud his creditors, and at the time of his so departing is possessed to his own use and benefit of any real or personal property, credits or effects therein not exempt by law from seizure, he shall be deemed an absconding debtor, and his property, credits or effects aforesaid, may be seized and taken for the satisfying of his debts by an order of attachment. R. S. O. 1887, c. 66, s. 1. Con. Rules 1897, No. 1,058.

Who to be
regarded as an
absconding
debtor.

PROCEDURE TO OBTAIN ATTACHMENT.

In the High Court.

2. Upon affidavit made by a plaintiff, his servant or agent that a person so departing is indebted to the plaintiff in a sum exceeding \$100, and stating the cause of action, and that the deponent has good reason to believe and does verily believe that the person has departed from Ontario and has gone to (stating some place to which the absconding debtor is believed to have fled, or that the deponent is unable to obtain any information as to what place he has fled to), with intent to defraud the plaintiff of his just dues, or to avoid being arrested or served with process, and was, at the time of his so departing, possessed of real or personal property, credits or effects, not exempt by law from seizure, to his own use and benefit in Ontario, and upon the further affidavit of

Proceedings
upon affidavits
that the de-
fendant has
absconded,
etc.

Order of attachment to issue.

two other persons, that they are well acquainted with the debtor mentioned in the first named affidavit, and have good reason to believe and do believe that the debtor has departed from Ontario with intent to defraud the plaintiff, or to avoid being arrested or served with process, the High Court, or a Judge thereof, or the Judge of a County Court, may make an order in the High Court for the attachment of the property, credits and effects of the debtor, and may in the order appoint the time for the defendant's putting in special bail, which time shall be regulated by the distance from Ontario of the place to which the absconding debtor is supposed to have fled, having due regard to the means of and necessary time for postal or other communication. R. S. O. 1887, c. 66, s. 2.

In County Courts.

Proceedings in cases within County Court jurisdiction.

3. In case the sum claimed is within the jurisdiction of the County Courts, any such Court or the Judge thereof, may in like manner make an order of attachment in that Court, and the proceedings thereon shall be the same as in this Act provided. R. S. O. 1887, c. 66, s. 3.

WHAT PROPERTY MAY BE ATTACHED.—INVENTORY, ETC.

Sheriff to attach all the property and credits of defendant.

4.—(1) All the property, credits and effects of an absconding debtor, including all rights and shares in any association or corporation, may be attached in the same manner as they might be seized in execution; and the sheriff to whom an order of attachment is directed shall forthwith take into his charge all such property and effects according to the exigency of the order, and shall be allowed all necessary disbursements for keeping the same, and he shall immediately call to his assistance two substantial freeholders of his county, and with their aid he shall make a just and true inventory of all the personal property, credits and effects, evidences of title or debt, books of account, vouchers and papers that he has attached, and shall return such inventory signed by himself and the said freeholders, together with the order of attachment. R. S. O. 1887, c. 66, s. 13.

Inventory to be made.

Exemptions.

(2) Goods exempt from seizure under execution shall not be liable to seizure under the order of attachment. R. S. O. 1887, c. 64, s. 4; part.

For property exempt from execution and attachment see Chaps. 77 and 156.]

PERISHABLE PROPERTY.

Sale of perishable goods on plaintiff giving security.

5. In case horses, cattle, sheep, pigs, or perishable goods or chattels, or such as from their nature (as timber or staves) cannot be safely kept or conveniently taken care of,

are taken under an order of attachment, the sheriff who attaches the same shall have them appraised and valued, on oath, by two competent persons; and in case the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by two freeholders (whose sufficiency shall be approved of by the sheriff), in double the amount of the appraised value of the articles, conditioned for the payment of the appraised value to the defendant, his executors or administrators, together with all costs and damages incurred by the seizure and sale thereof, in case judgment is not obtained by the plaintiff against the defendant, then the sheriff shall proceed to sell all or any of such enumerated articles at auction, to the highest bidder, giving not less than six days' notice of the sale, unless any of the articles are of such a nature as not to allow of that delay, in which case the sheriff may sell such articles last mentioned forthwith; and the sheriff shall hold the proceeds of the sale for the same purposes as he would hold property seized under the attachment. R. S. O. 1887, c. 66, s. 14.

Sheriff to hold proceeds.

6. If the plaintiff, after notice to himself or his solicitor of the seizure of any articles enumerated in the last preceding section, neglects or refuses to deposit the bond, or only offers a bond with sureties insufficient in the judgment of the sheriff, then, after the lapse of four days next after the notice, the sheriff shall be relieved from all liability to the plaintiff in respect to the articles so seized, and the sheriff shall forthwith restore the same to the person from whose possession he took such articles. R. S. O. 1887, c. 66, s. 15.

The goods to be restored if plaintiff fails to give sufficient security.

WHEN DIVISION COURT ATTACHMENT SUPERSEDED.

7. If the sheriff to whom an order of attachment is delivered for execution, finds any property or effects, or the proceeds of any property or effects which have been sold as perishable, belonging to the absconding debtor named in the order of attachment, in the custody of a constable or of a bailiff or clerk of a Division Court by virtue of a warrant of attachment issued or money paid into Court under a garnishee summons under *The Division Courts Act*, the sheriff shall demand and take from the constable, bailiff or clerk, the property or effects, or the proceeds of any part thereof and the constable, bailiff or clerk, on demand by the sheriff and notice of the order of attachment, shall forthwith deliver all the property, effects and proceeds aforesaid to the sheriff, upon penalty of forfeiting double the value of the amount thereof, to be recovered by the sheriff, with costs of suit, and to be by him accounted for after deducting his own costs, as part of the property and effects of the absconding debtor; but the creditor who has duly sued out the warrant of attachment may proceed to judgment against the absconding debtor in the Division Court, and on obtaining judgment, and serving a

Proceeding if Sheriff finds property in the hands of a Bailiff or Clerk of a Division Court.

Rev. Stat. c. 60.

Creditor in Division Court may proceed to judgment.

memorandum of the amount thereof, and of the costs to be certified under the hand of the clerk of the Division Court, such creditor shall be entitled to satisfaction in like manner as, and in ratable proportion with, the other creditors of the absconding debtor who obtain judgment as hereinafter mentioned. R. S. O. 1887, c. 66, s. 16.

SHERIFF'S COSTS.

Sheriff's costs
and how paid.

8. The costs of the sheriff for seizing and taking charge of property, credits and effects under an order of attachment, including the sums paid to persons for assisting in taking an inventory, and for appraising (which shall be paid for at the rate of \$1 for each day actually required for and occupied in making the inventory or appraisal) shall be paid in the first instance by the plaintiff, and may, after having been taxed, be recovered by the sheriff by action in any Court having jurisdiction, and such costs shall be taxed to the party who pays the same as part of the disbursements in the action against the absconding debtor and be so recovered from him. R. S. O. 1887, c. 66, s. 17.

Cost of new
inventory not
allowed on re-
ceipt of new
writ.

9. The sheriff having made an inventory and appraisal on the first order of attachment against any absconding debtor, shall not be required to make, nor shall he be allowed to charge for, a new inventory and appraisal upon a subsequent order of attachment coming into his hands. R. S. O. 1887, c. 66, s. 18.

SALE OF CHATTELS.

Sale of goods
under order of
attachment.

10.—(1) The Court or a Judge may, at any time after an order of attachment has been in the hands of a sheriff, or other officer, for one month, direct him to sell any goods or chattels, except chattels real which have been attached.

(2) An order for sale may be made upon the application of a creditor having an order of attachment, or a writ of execution, in the hands of the sheriff, and shall be made if the Court or Judge is satisfied that the alleged debtor has in fact absconded indebted to the applicant, and that the property attached is not sufficient to pay in full the claims of the persons who have obtained orders of attachment, or execution, but this provision shall not be construed to restrict the authority of the Court or Judge to make an order in other cases; and in all cases terms may be imposed.

(3) The costs of the first order of attachment shall have priority over all execution debts and other costs. R. S. O. 1887, c. 66, s. 20.

[As to sales of shares, etc., in Companies, see secs. 10 to 16 of "The Execution Act," Cap. 77.]

ATTACHMENT OF DEBTS DUE TO ABSCONDING DEBTOR.

11. In case notice in writing of the order of attachment has been duly served by the sheriff, or by or on behalf of the plaintiff, upon a person owing a debt or demand to, or who has the custody or possession of property or effects of, an absconding debtor, and in case such person after such notice pays the debt or demand or delivers the property or effects to the absconding debtor, or to any one for him, he shall be deemed to have done so fraudulently, and if the plaintiff recovers judgment against the absconding debtor, and the property and effects seized by the sheriff are insufficient to satisfy the judgment, such person shall be liable for the amount of the debt or demand, and for the property and effects or the value thereof. R. S. O. 1887, c. 66, s. 21.

Liability of persons paying debts to absconding debtor after notice of attachment.

12. If after notice as aforesaid a person indebted to the absconding debtor, or having custody of his property as aforesaid, is sued for the debt, demand or property by the absconding debtor, or by the person to whom the absconding debtor has assigned the debt, demand or property since the date of the order of attachment, he may, on affidavit, apply to the Court or a Judge, to stay proceedings in the action against himself, until it is known whether the property and effects so seized by the sheriff, are sufficient to discharge the sum or sums recovered against the absconding debtor, and the Court or Judge may direct an issue to try any disputed question of fact or make such other order as is proper. R. S. O. 1887, c. 66, s. 22.

Debtor if sued by defendant after service of notice of attachment may obtain stay of proceedings.

WHEN SHERIFF MAY SUE FOR OUTSTANDING DEBTS.

13. If the real and personal property, credits and effects of an absconding debtor prove insufficient to satisfy the executions obtained against him and claims certified under *The Creditors' Relief Act*, the sheriff may, by order of the Court or a Judge, to be granted on the application of any plaintiff or claimant sue for and recover from any person indebted to the absconding debtor, the debt, claim, property or right of action attachable under this Act, and owing to or recoverable by the absconding debtor, with costs of suit, in which action the defendant shall be allowed to set up any defence which would have availed him against the absconding debtor at the date of the order of attachment, and a recovery in the action by the sheriff shall operate as a discharge as against the absconding debtor; and the sheriff shall hold and apply the moneys recovered by him as part of the assets of the absconding debtor. R. S. O. 1887, c. 66, s. 23.

Debtor of defendant may be sued by sheriff if defendant's property is not sufficient to satisfy claims.

Rev. Stat. c. 78.

14. The statement of claim in the action by the sheriff shall contain an introductory averment to the effect following:

Averment to be inserted in Sheriff's statement of claim.

The plaintiff is Sheriff of (etc.) and sues under the provisions of *The Act respecting Absconding Debtors*, in order to recover from *C. D.*, debtor to *E. F.*, an absconding debtor, the debt due (or other claim, according to the facts) by the said *C. D.*, to the said *E. F.*, etc.

R. S. O. 1887, c. 66, s. 24.

Sheriff not bound to sue until creditor gives bond of indemnity.

15. The sheriff shall not be bound to sue as aforesaid until a bond is given by one or more of the plaintiffs or claimants with two sufficient sureties, who may be other of the plaintiffs or claimants, payable to the sheriff by his name of office in double the amount or value of the debt or property sued for, conditioned to indemnify him from all costs, losses and expenses to be incurred in the prosecution of the action or to which he may become liable in consequence thereof. R. S. O. 1887, c. 66, s. 25.

Sale of debts by sheriff.

Rev. Stat. c. 78.

16. If the real and personal property, credits and effects of an absconding debtor prove insufficient to satisfy the executions obtained against him and claims certified under *The Creditors' Relief Act*, and if there remain debts due to the absconding debtor, the attempt to collect which would be more onerous than beneficial to his creditors, the sheriff may, by an order of the Court or a Judge, sell such debts by public auction after such advertisement thereof as the Court or Judge may order, and pending such advertisement the sheriff shall keep a list of the debts to be sold open for inspection at his office, and shall give free access to all documents and vouchers explanatory of such debts; but all debts amounting to more than \$100 shall be sold separately, unless the Court or Judge shall otherwise order. 52 V. c. 11, s. 2, part.

Purchaser entitled to sue in his own name.

17. The person who purchases a debt from the sheriff may sue for it in his own name, and without any further order of the Court or Judge, as effectually as the absconding debtor might have done, and as the sheriff is by section 13 hereof authorized to do, and a bill of sale, which may be in the form in the Schedule to this Act, or to the like effect, signed and delivered to him by the sheriff, shall be *prima facie* evidence of such purchase and of the sheriff's authority to sell without proof of the handwriting of the sheriff, or of the writ or order, or of the sale, and no warranty on the part of the sheriff that the debt is due or otherwise shall be created by such sale and conveyance, and in any action by the purchaser of such debt the defendant shall be allowed to set up any defence which would have availed him against the absconding debtor at the date of the order of attachment. 52 V. c. 11, s. 2, part.

DISTRIBUTION OF PROCEEDS.

Who entitled to share if property proves insufficient to pay all.

18. In case the property and effects of the absconding debtor are insufficient to satisfy the executions and other claims certified, none shall be allowed to share, unless their proceed-

ings under this Act or *The Creditors' Relief Act*, or the provisions of *The Division Courts Act* respecting absconding debtors were commenced within six months from the date of the first order of attachment. R. S. O. 1887, c. 66, s. 26.

Rev. Stat.
cc. 78 and 60.

19. The Court or a Judge may delay the distribution, in order to give reasonable time for the obtaining of judgment or allowance of claim by persons who have commenced proceedings in due time against the absconding debtor. R. S. O. 1887, c. 66, s. 27.

Delay of dis-
tribution until
claims estab-
lished.

SURPLUS TO BE RESTORED.

20. In case at any time the sheriff has levied for distribution sufficient to pay all debts and claims for which proceedings had then been commenced, including costs, and one month has elapsed without proceedings being taken in respect of any other debt or claim, or in case after a period of one month from a distribution under the order of the Court or a Judge, whichever last happens, and after satisfying the several plaintiffs and claimants entitled, there is no other writ of attachment or execution against the same property and effects in the hands of the sheriff, or claim certified against the debtor, then, all the property and effects of the absconding debtor, or unappropriated money the proceeds of any part of such property and effects, remaining in the hands of the Sheriff, together with all books of account, evidences of title or of debt, vouchers and papers whatsoever belonging thereto, shall be delivered to the absconding debtor or to the person or persons in whose custody the same were found, or to the authorized agent of the absconding debtor, and thereupon the responsibility of the sheriff in respect thereto shall determine. R. S. O. 1887, c. 66, s. 28.

When all seiz-
ing creditors
are satisfied,
remaining pro-
perty to be
delivered up.

SCHEDULE.

BILL OF SALE OF A DEBT.

(Section 17.)

In consideration of the sum of \$ _____, the receipt whereof I do hereby acknowledge :

I, *A. B*, Sheriff of the County of _____, under and by virtue of an order of attachment dated _____, issued under *The Act respecting Absconding Debtors*, against the real and personal property, credits and effects of *C. D.* an absconding debtor, and under and by virtue of an order in that behalf, hereby sell and assign to *E. F.* all claim by the said absconding debtor, against *G. H.*, of (*describing the debtor*), with evidences of debt and securities thereto appertaining ; but without any warranty of any kind or nature whatsoever.

CHAPTER 80.

An Act respecting Arrest and Imprisonment for Debt.

ARREST, WHEN MAY BE HAD, ss. 1-7.	SECURITY FROM DEBTORS IN CIVIL CUSTODY, ss. 15-25
WRITS OF <i>Cu Sa.</i> , s. 8.	EXAMINATION OF DEBTOR, ss. 26, 27.
ORDERS FOR PAYMENT OF MONEY, s. 9.	EXECUTION AGAINST GOODS AND LANDS, s. 28.
PERSON HAVING CARRIAGE OF JUDGMENT TO BE DEEVED PLAINTIFF, s. 10.	DISCHARGE FROM CUSTODY, s. 29.
DELAY BEFORE COMMITTAL TO GAOL, ss. 11, 12.	PROVISION IN CASE OF SEPARATION OF UNITED COUNTIES, ss. 30, 31.
CUSTODY OF PERSONS ARRESTED, s. 13.	LIABILITY OF SHERIFF FOR ESCAPE, s. 32.
GAOL LIMITS, s. 14.	DEBTORS IN CRIMINAL CUSTODY, s. 33.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

ARREST.

Defendant may be held to bail on affidavit of certain facts and order of a judge

1. In case a party or plaintiff being a creditor of, or having a cause of action against a person liable to arrest, by affidavit of himself or some other person shews to the satisfaction of a Judge of the High Court, or to the Judge of a County Court, that such party or plaintiff has cause of action against such person to the amount of \$100 or upwards or that he has sustained damage to that amount, and also by affidavit shews such facts and circumstances as satisfy the Judge, that there is good and probable cause for believing that such person, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or the said party or plaintiff in particular, the Judge may order that the person against whom the application is made, shall be arrested and held to bail for such sum as the Judge thinks fit, and the Judge or the acting Judge of the County Court, may grant an order for arrest where process is intended to be sued out of or an action has been commenced in the High Court, as well as in his own Court. R. S. O. 1887. c. 67, s. 1. Rules 1888, No. 1045.

Application of statute.

2. A party or plaintiff formerly entitled to obtain the writ of arrest called *ne exeat*, is now to proceed under section 1 of this Act. R. S. O. 1887, c. 67, s. 3.

3. No order to arrest and hold to bail shall be made for a cause of action less than \$100, but such order may be issued when the cause of action equals or exceeds that sum. R. S. O. 1887, c. 67, s. 4.

Arrest restricted to persons not to be arrested less than \$100.

4. No person shall be subject to arrest who, by reason of any privilege, usage or otherwise, is by law exempt therefrom. R. S. O. 1887, c. 67, s. 5.

Privileged persons not to be arrested.

5. Process of contempt for non-payment of any sum of money, or for non-payment of any costs, charges or expenses, payable by a judgment or order of the High Court or of a Judge thereof, or by a judgment or order of a County Court or a Judge thereof, is abolished; and no person shall be liable to arrest for non-payment of costs. R. S. O. 1887, c. 67, s. 6.

Arrest for non-payment of money, costs, etc., abolished.

6. No married woman shall be liable to arrest either on mesne or final process. R. S. O. 1887, c. 67, s. 7.

No married woman to be arrested.

7. No person shall be arrested or imprisoned on a claim or on a judgment recovered against him as a debtor for a penalty or sum of money in the nature of a penalty or forfeiture, whether the claim or judgment be in the name of such person alone, or in the form of proceeding known as *qui tam*, etc. (notwithstanding anything to the contrary in any statute providing for the recovery of such penalties or sums by action), except in cases and under circumstances where, on claims or judgments for ordinary debts, parties can be arrested or imprisoned. R. S. O. 1887, c. 67, s. 8.

Arrest on claim or judgment for a penalty.

WRITS OF CAPIAS AD SATISFACIENDUM.

8. Where the defendant has been held to special bail upon a Judge's order made under this Act, it shall not be necessary to obtain another order before suing out a writ of *ca. sa.* or to file any further affidavit than that upon which the order was obtained in the first instance; but where the defendant has not been so held to special bail, if the plaintiff in the action, by the affidavit of himself or some other person shews to the satisfaction of a Judge of the High Court, or where the case is in a County Court, to the Judge or acting Judge of such Court, that he has recovered judgment against the defendant for the sum of \$100 or upwards, exclusive of costs, and also by affidavit shews such facts and circumstances as satisfy the Judge that there is good and probable cause for believing either that the defendant, unless he be forthwith apprehended, is about to quit Ontario with intent to defraud his creditors generally or the plaintiff in particular, or that the defendant has parted with his property or made some secret or fraudulent conveyance thereof in order to prevent its being taken in execution, the Judge may

Where defendant held to special bail *ca. sa.* may issue.

When to obtain *ca. sa.* affidavits necessary and the contents thereof.

order that a writ of *capias ad satisfaciendum* be issued. R. S. O. 1887, c. 67, s. 9.

Orders for payment of money to be deemed judgments.

9. Every order of the High Court, and of a County Court, directing payment of money or of costs, charges or expenses, shall, so far as it relates to such money, costs, charges, or expenses, be deemed a judgment, and the person to receive payment a creditor, and the person to make payment a debtor, within the meaning of this Act; and the said persons shall respectively have the same remedies, and the Courts and Judges and the officers of justice shall in such cases have the same powers and duties, as in corresponding cases under this Act. R. S. O. 1887, c. 67, s. 10.

Person having carriage of the judgment, etc., to be deemed the plaintiff.

10. In case a judgment or order of the High Court directs the payment of money into Court, or to the credit of any cause, or otherwise than to any person, the person having the carriage of the judgment or order, so far as relates to the payment, shall be deemed the person to receive payment or the plaintiff (as the case may be) within the meaning of this Act. R. S. O. 1887, c. 67, s. 11.

DELAY BEFORE COMMITTAL TO GAOL.

32 Geo. II. c. 28, declared not to be in force in Ontario.

11. The Act of the Imperial Parliament, passed in the 32nd year of the Reign of His late Majesty King George the Second, chaptered 28, and intituled "An Act for Relief of Debtors with respect to the Imprisonment of their Persons and to oblige Debtors who shall continue in execution in Prison beyond a certain length of time, and for sums not exceeding what are mentioned in the Act, to make discovery of and deliver upon oath their estates for their creditors' benefit," is not, nor is any part thereof, in force in this Province. 55 V. c. 15, s. 1.

Sheriff to allow debtor twenty-four hours delay before committing him to gaol.

12. The sheriff at the request of a person arrested under civil process shall grant to such person a delay of twenty-four hours after his arrest before committing him to gaol, and shall take such person for the said twenty-four hours to some safe and convenient house in his shrievalty; provided such person prepays to the sheriff a sum of money sufficient to cover the sheriff's reasonable fees and expenses incident to the delay. 55 V. c. 15, s. 2.

CUSTODY OF PERSONS ARRESTED.

Person arrested out of his county may be transferred to it upon paying the cost.

13. A person arrested and committed to gaol in any other county than that in which he resided or carried on business at the time, shall be entitled to be transferred to the gaol of his own county, on prepaying the expense of his removal; and the sheriff in whose county he was arrested

may, if he is satisfied of the facts, transfer him accordingly; but if the sheriff declines to act without an order of the Court or a Judge, such an order shall be made on the application of the prisoner, and notice to the opposite party. R. S. O. 1887, c. 67, s. 12.

GAOL LIMITS.

14. The limits of every county for judicial purposes shall be the limits of the gaol of the county. R. S. O. 1887, c. 67 s. 13.

SECURITY FROM DEBTORS IN CIVIL CUSTODY.

15. The sheriff of a county may take from a debtor confined in the gaol thereof, in execution or upon mesne process, a bond with not less than two nor more than four sufficient sureties, to be jointly and severally bound in a penalty of double the amount for which the debtor is so confined, conditioned, that the debtor will observe and obey all notices, or orders of Court touching or concerning the debtor, or his appearing to be examined *viva voce*, or his returning and being remanded into close custody, and that upon reasonable notice to them or any of them, requiring them so to do, they will produce the debtor to the sheriff, and also that the debtor will within thirty days, cause the bond, or the bond that may be substituted for the same, according to the provisions hereinafter contained, to be allowed by the Judge of the County Court of the County wherein the debtor is confined, and the allowance to be endorsed thereon by the Judge: and for this purpose the sheriff shall, upon reasonable notice given by the debtor, cause such first mentioned bond to be produced before the Judge. R. S. O. 1887, c. 67, s. 14.

Sheriff may take security from debtors in custody.

16. The sheriff may also require each surety, where there are only two, to make oath in writing, to be annexed to the bond, that he is a freeholder or householder in some part of Ontario (stating where), and is worth the sum for which the debtor is in custody (naming it) and \$200 more, over and above what will pay all his debts; or where there are more than two sureties, then he may require each surety to make oath as aforesaid, that he is a freeholder or householder as aforesaid, and is worth one-half the sum for which the debtor is in custody (naming it), and \$200 more, over and above what will pay all his debts. R. S. O. 1887, c. 67, s. 15.

Surety to make affidavit, etc.

17. Upon receipt of the bond, accompanied by an affidavit of a subscribing witness of the due execution thereof, and by the sureties' affidavits of sufficiency, if required by the sheriff, the sheriff may permit and allow the debtor to go out of close custody in gaol; and so long as the debtor in all respects observes the conditions of the bond, the sheriff shall not be

On receipt of bond, Sheriff may allow the debtor to go at large.

liable to the party at whose suit the debtor is confined in any action for the escape of the debtor from gaol. R. S. O. 1887, c. 67, s. 16.

Application
for allowance
of bond to be
made on
motion, etc.

18. The debtor may apply for the allowance of the bond upon four clear days' notice in writing to the plaintiff or his solicitor, who at the time of the application may object to the sufficiency of the sureties; and if the Judge refuses allowance of the bond, then the debtor may cause another bond, made to the sheriff in the same terms and under the same conditions, to be executed without further application to the sheriff, and may apply in like manner and upon like notice for the allowance thereof; and the bond, if allowed and indorsed as aforesaid, shall be substituted for and have the like effect in all respects, as the bond so first given to the sheriff as aforesaid would have had upon the allowance thereof, and the like remedies shall be had thereon, and the first given bond shall thereupon become void. R. S. O. 1887, c. 67, s. 17.

When bond
allowed,
Sheriff dis-
charged from
responsibility.

19. Upon the allowance being so indorsed, the sheriff shall be discharged from all responsibility respecting the debtor, unless the debtor is again committed to the close custody of the sheriff in due form of law. R. S. O. 1887, c. 67, s. 18.

Conditions of
bail-bond
under writ of
ca. sa.

20. Persons who give bail under a writ of *capias ad satisfaciendum* shall not be bound to remain within the gaol limits, but may depart therefrom at their discretion; and when a person desires to give bail under such a writ, the condition of the bond to the sheriff shall provide that the person arrested shall observe and obey all notices, orders and rules of the Court concerning the debtor or person ordered to pay, or his appearing to be examined *viva voce* or otherwise, or his returning and being remanded into close custody; and the party or his bail shall not be entitled to claim longer time for so observing or obeying than he would have been entitled to if the party had been on the limits according to the practice before the 4th day of May, 1859, but the Court may grant further time if of opinion that the same may be done without substantial injury to the interests of the party to receive the money. R. S. O. 1887, c. 67, s. 19.

Deposit of
money instead
of bail.

21. In lieu of giving bail, a person arrested either on execution or mesne process or any person on his behalf may deposit with the sheriff a sum of money equal to twenty-five per cent. more than the amount for which the debtor is arrested and the said money shall stand as a security in place of and for the purposes of the bond provided for by sections 15 and 20 of this Act, or of the security provided for by the Rules of Court (as the case may be), and the said money shall for the purposes aforesaid be subject to the order of a Judge of the Court from which the process issued, as the case may require, but such deposit shall be repayable to the party depositing

the same upon the sheriff being furnished with a certificate of the Judge or officer who allows the same, that the bond provided for by sections 15 or 20 or the bond or other security provided for by the Rules of Court (as the case may be) has been perfected and allowed. 55 V. c. 15, s. 3; 56 V. c. 5, s. 13.

22. In case the sheriff has good reason to apprehend that any surety has after entering into the bond, become insufficient to pay the amount sworn to, the sheriff may again arrest the debtor, and detain him in close custody. R. S. O. 1887, c. 67, s. 20.

If the sureties become insufficient, Sheriff may re-take the debtor.

23. The sureties of the debtor may set up the arrest and detention as a defence to any action brought against them upon the bond entered into by them, and the defence if sustained in proof shall wholly discharge them; and the debtor may again be allowed to go at large, on giving to the sheriff a new bond with sureties as aforesaid. R. S. O. 1887, c. 67, s. 21.

The sureties may plead such arrest.

24. Upon breach of the condition of any such bond, the party at whose suit the debtor is confined may require the sheriff to assign the same to him, and the assignment shall be made in writing, under the seal of the sheriff and attested by at least one witness, and the assignee of the sheriff or the executors or administrators of the assignee may maintain an action in his or their own names upon the bond, which action the sheriff shall have no power to release; but upon executing an assignment as aforesaid, the sheriff shall be thenceforth discharged from all liability on account of the debtor or his safe custody. R. S. O. 1887, c. 67, s. 22.

Bond may be assigned.

25. The sureties of any debtor may surrender him into the custody of the sheriff at the gaol, and the sheriff, his deputy or gaoler shall there receive the debtor into custody, and the sureties may set up the surrender or offer to surrender and the refusal of the sheriff, his deputy or gaoler to receive the debtor into custody at the gaol, as a defence to any action brought on the bond for a breach of the condition happening after the surrender or tender and refusal, and the defence if sustained in proof, shall discharge them; but the debtor may again be allowed to go at large, on giving to the sheriff a new bond, with sureties as aforesaid. R. S. O. 1887, c. 67, s. 23.

Sureties may surrender debtor.

26. The party at whose suit any debtor has been confined may, at any time while the debtor is at large upon bail, apply to the Court or Judge for an order for the examination of the debtor, in the manner provided in *The Act respecting the Relief of Indigent Debtors*, and in case the debtor neglects or omits to submit himself to be examined pursuant to the order, or refuses to make full answer in respect to the matters touching which he is examined, to the satisfaction of the Court

Debtor on bail liable to be examined. Rev. Stat. c. 81.

Or be re-committed.

or Judge, the Court or a Judge may order the debtor to be committed to close custody, and the sheriff, on due notice of the order, shall forthwith take the debtor and commit him to close custody until he obtains an order of the Court or a Judge for again allowing him to go out of close custody, on giving the necessary bond as aforesaid, or until he is otherwise discharged by due course of law. R. S. O. 1887, c. 67, s. 24.

On answering debtor may be again allowed to go at large.

27. A new order may be granted on the debtor shewing that he has submitted himself to be examined and made full answer as aforesaid, and has thereafter given to the plaintiff or his solicitor ten days' notice of his intention to apply. R. S. O. 1887, c. 67, s. 25.

Plaintiff may have execution against property of debtor on bail.

28. The party at whose suit a debtor has been confined in execution may, wherever the debtor has been admitted to bail, sue out writs against his goods and lands, notwithstanding that the debtor has been charged in execution; and the writ shall not be stayed, but shall be proceeded with until executed, although the debtor be re-committed to close custody. R. S. O. 1887, c. 67, s. 26.

DISCHARGE FROM CUSTODY.

Discharge of *ca. sa.* debtor not in close custody.

29. A person arrested under a writ of *capias ad satisfaciendum* or under an order of attachment, though he is not confined to close custody but has given bail may apply for and obtain his discharge in the same manner and subject to the same terms and conditions as nearly as may be as an execution debtor who is confined to close custody. R. S. O. 1887, c. 67, s. 27.

SEPARATION OF UNITED COUNTIES.

Proceedings under bailable process in cases of dissolution of a Union of Counties.

30. A person arrested or held to bail before the separation of a junior from a senior county, and liable to be imprisoned, shall be so imprisoned in the gaol of the county in which he was arrested; and all proceedings in the action in which a person was so arrested or held to bail, and all proceedings after judgment founded on the arrest or holding to bail, shall be carried on as if the arrest or holding to bail had taken place in such county as a separate county; and in case the proceedings are to be had in the junior county, all the records and papers relative to the case shall be transmitted to the proper officer of the junior county. R. S. O. 1887, c. 67, s. 28.

Gaol for debtor where United Counties, dissolved.

31. In case a debtor or other person is admitted to bail in a union of counties, and the union is afterwards dissolved, or one or more counties are separated therefrom, and in case

such person after the dissolution of the union is surrendered or ordered to be committed to close custody, he shall be surrendered or committed to the sheriff of the county in which he is arrested, and be imprisoned in the gaol thereof. R. S. O. 1887, c. 67, s. 29.

LIABILITY OF SHERIFF FOR ESCAPE.

32. If a debtor in execution escapes out of legal custody, the sheriff, bailiff, or other person having the custody of the debtor, shall be liable only to an action for damages sustained by the person or persons at whose suit the debtor was taken or imprisoned, and shall not be liable to any other action in consequence of the escape. R. S. O. 1887, c. 67, s. 30.

DEBTORS IN CRIMINAL CUSTODY.

33. None of the foregoing provisions relative to the discharge from custody or admission to bail shall extend or be applicable to debtors who are at the same time in custody upon any criminal charge. R. S. O. 1887, c. 67, s. 31.

Sheriff only to be liable for damages sustained.

This Act not to extend to debtors in custody on criminal charges.

CHAPTER 81.

An Act respecting the Relief of Indigent Debtors.

SHORT TITLE, s. 1.

WEEKLY ALLOWANCE TO DEBTORS IN
CLOSE CUSTODY :

When allowed, ss. 2-6.

Discharge of debtor if not paid,
s. 3.Recovery of allowance from debtor
s. 7.DISCHARGE FROM CUSTODY ON
GROUND OF INDIGENCE :

Application for discharge, ss. 8-10.

Examination of debtor, ss. 8-10.

Condition of discharge, s. 11.

Re-committal in cases of fraud,
breach of promise, seduction,
etc., s. 12.Re-committal where unduly dis-
charged, s. 13.PRODUCTION OF DEBTOR FOR EXAMINA-
TION, s. 14.

JUDICATURE ACT TO APPLY, s. 15.

RULES MAY BE MADE, s. 15.

ACT NOT TO APPLY TO DEBTORS IN
CUSTODY ON CRIMINAL CHARGES,
s. 16.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario
enacts as follows:—

Short title.

1. This Act may be cited as "*The Indigent Debtors' Act.*"
R. S. O. 1887, c. 68, s. 1.

In what cases
debtors in
close custody
to be entitled
to weekly
allowance.

2. If a debtor in close custody :

1. Upon *mesne* process ; or

2. In execution ; or

3. Upon any other final process, for non-payment of any sum of money awarded, or for non-payment of any claim in the nature of a debt or demand due, being a sum certain or capable of being ascertained by computation and not being in the nature of a penalty to enforce the doing of some act other than the payment of a sum of money (in which several cases the debtor shall be deemed to be a prisoner in execution),—

makes oath ;

Affidavit
required.

(a) That he is a prisoner in close custody, setting forth on which of the causes of detention above specified ; and

(b) That he is unable to find bail ; and

(c) That he is not worth the sum of \$20 ;

And in case he is in custody on *mesne* process,

- (d) That he does not believe the demand of the plaintiff to be just, and for that cause, and no other, resists payment of the same and refuses to confess judgment for the sum sworn to,

the Court from which the process issued, or a Judge shall make an order on the plaintiff at whose suit the debtor is detained, to pay to the debtor on the third Monday after the service of the order, and upon each Monday thereafter, so long as the debtor is detained in prison at the suit of the plaintiff the sum of \$2, and the payment shall be made to the debtor or to the gaoler in whose custody he is, for the use of the debtor. R. S. O. 1887, c. 68, s. 2.

The allowance when payable.

3. In default of payment of the allowance, the debtor on his affidavit of the default and upon notice to the plaintiff shall unless sufficient cause is shewn be entitled to an order for discharge; but the discharge shall not, in case the debtor was confined on *mesne* process, prevent the plaintiff from proceeding to judgment and execution against the body, lands or goods, according to the practice, and in case the debtor is a prisoner in execution, the discharge shall not be a release or satisfaction of the judgment or other debt or demand, or deprive the plaintiff of any remedy against the lands or goods of the debtor. R. S. O. 1887, c. 68, s. 3.

When debtor entitled to be discharged if allowance not paid.

Effect of discharge.

4. Where a debtor applies for the weekly allowance, or to be discharged from custody for non-payment thereof, the plaintiff may apply for an order that the debtor shall be examined *vide voce* on oath for the purpose of discovering any property or effects the debtor may be possessed of or entitled to, or which may be in the possession or under the control of some other person for his use or benefit, or which he may have fraudulently disposed of to injure his creditor, and until the debtor has made full answer respecting the same to the satisfaction of the Court or Judge, no order for the payment of the weekly allowance shall be made, or if previously made, no order for his discharge for non-payment thereof shall be made. R. S. O. 1887, c. 68, s. 4.

Debtor not entitled to allowance, or to his discharge in default of payment until he has answered satisfactorily touching his property.

5. If the debtor has obtained an order for payment of the weekly allowance, the plaintiff may at any time apply for an order for examination, and the Court or Judge, on the application of the plaintiff, may stay further payment until the debtor has made full answer as aforesaid to the satisfaction of the Court or Judge. R. S. O. 1887, c. 68, s. 5.

Examination of debtor.

6. In case the debtor is a prisoner in close custody in several actions or matters, he must make all the plaintiff's parties to his application for the weekly allowance, and

Defendant in custody on several writs, only entitled to one allowance, etc.

he shall only be entitled to one weekly sum of \$2; and if the weekly allowance be unpaid, the debtor shall have the same right as when in custody in one action only, to be discharged from custody in all the actions or matters named in the order for payment, and the plaintiffs named in the order must all be made parties on an application for the debtor's discharge on account of non-payment, and all the plaintiffs must join in the examination of the defendant, and they shall regulate among themselves the apportionment and the payment of the weekly allowance. R. S. O. 1887, c. 68, s. 6.

Allowance may be recovered from debtor as costs.

7. The plaintiff shall be entitled to recover from his debtor all sums paid to him for weekly allowance while a prisoner on *mesne* process, and upon proof before the taxing officer, the amount shall be taxed as disbursements in the action. R. S. O. 1887, c. 68, s. 7.

A debtor in custody in execution, may apply to be discharged.

Examination of debtor as to his property, etc.

8. In case a debtor, according to the intent and meaning of this Act, confined in close custody in execution, gives to the party at whose suit he is a prisoner or to his solicitor, a notice in writing that he will, after the expiration of ten days from the day of service apply to be discharged from custody, the plaintiff, at whose suit he is confined, may apply to the Court or a Judge for an order that the debtor be examined *viva voce* on oath, for the purpose of discovering any property or effects which the debtor is possessed of or entitled to, or which are in the possession or under the control of some other person for the use or benefit of the debtor, or which the debtor, having been in possession of, may have fraudulently disposed of to injure his creditor, and touching the debtor's estate and effects, and the circumstances under which he contracted the debt or incurred the liability which was the subject of the action in which judgment has been rendered against him, and as to the means and expectations the debtor then had, and as to the property and means he still has, and as to the disposal he may have made of his property. R. S. O. 1887, c. 68, s. 8.

[*Imp. Act 32 Geo. II., Cap. 28 entitled "An Act for the Relief of Debtors with respect to the imprisonment of their Persons and to oblige Debtors who shall continue in execution in Prison beyond a certain length of time, and for sums not exceeding what are mentioned in the Act, to make discovery of and deliver upon oath their estates for their creditors' benefit," is by Cap. 80, sec. 11., declared not to be in force in Ontario.*]

Application of debtor for discharge.

9. After the expiration of ten days from the day of the service of notice as aforesaid, and upon the debtor's making oath that he is not worth \$20 exclusive of the goods and chattels exempt from execution, and that he has submitted himself to be examined pursuant to order (or that no such order has been served), the debtor may upon notice apply to the

Court or a Judge for an order of discharge, and upon the hearing of the application, and where such examination has taken place, if the matter thereof is deemed satisfactory, the debtor shall be discharged from custody, and the discharge shall have effect only as a discharge for non-payment of the weekly allowance. R. S. O. 1887, c. 68, s. 9.

Discharge and its effect.

10. In case the plaintiff has already caused the debtor to be examined *viva voce*, and in case upon the hearing of the application, further enquiry appears requisite for the ends of justice, the Court or Judge may allow the plaintiff a reasonable time to cause the debtor to be further examined *viva voce*, and may allow a reasonable time for the debtor to submit to the further examination, before the application is finally disposed of. R. S. O. 1887, c. 68, s. 10.

Further examination of debtor may be ordered.

11. It may be a condition of the debtor's discharge that he shall first, by an assignment or conveyance, to be approved of by the Court or Judge assign and convey to the party at whose suit he is in custody, any right or interest which he may have or be presumed to have in and to any property, real or personal, credits and effects, other than goods and chattels exempt from execution. R. S. O. 1887, c. 68, s. 11.

Discharge may be on condition of assignment by debtor.

12. In case it appears that the debt for which the debtor is confined was contracted by any manner of fraud or breach of trust, or under false pretences, or that the debtor wilfully contracted the debt or incurred the liability without having had at the same time a reasonable assurance of being able to pay or discharge the same, or that he is confined by reason of any judgment in an action for breach of promise of marriage, seduction, criminal conversation, libel or slander, the Court or Judge may order the applicant to be re-committed to close custody for a period not exceeding twelve months, and to be then discharged. R. S. O. 1887, c. 68, s. 12.

Re-committal for not more than 12 months, in cases of fraud, seduction, libel, etc.

13. In case a discharge granted under this Act has been unduly or fraudulently obtained by a false allegation of circumstances which, if true, might have entitled the debtor to be discharged by virtue of this Act, the debtor shall, upon the same being made to appear to the satisfaction of the Court or a Judge as aforesaid, be liable to be again taken in execution and remanded to his former custody by order of the Court or a Judge; but no sheriff or gaoler shall be liable as for an escape of the debtor in respect of his enlargement during the time he has been at large by means of his undue discharge as aforesaid. R. S. O. 1887, c. 68, s. 13.

Debtor unduly obtaining discharge may be re-taken in execution.

14. The Court or Judge making any order for examination of a debtor under this Act may issue an order to the sheriff or gaoler having the custody of the debtor, to bring the debtor before him or before some person (to be named in the order),

Debtor to be taken before the Judge or officer for examination.

for the purpose of being so examined, and the sheriff or gaoler shall take the debtor before the Judge or person named as aforesaid, for examination under the authority of this Act, in the same manner as if the sheriff or gaoler were acting in obedience to a writ of *habeas corpus ad testificandum*. R. S. O. 1887, c. 68, s. 14.

Judicature
Act and
Rules to apply
to this Act.
Rev. Stat.
c. 51.

15. *The Judicature Act* shall so far as applicable apply to this Act, and the Judges authorized under that Act to make Rules may make Rules for carrying this Act into effect. R. S. O. 1887, c. 68, s. 15.

Debtors in cus-
tody on criminal
charges ex-
cepted.

16. None of the foregoing provisions relative to the weekly allowance, or discharge from custody on account of indigence, shall extend or be applicable to debtors who are at the same time in custody upon a criminal charge. R. S. O. 1887, c. 68, s. 16.

CHAPTER 82.

An Act respecting the Restitution of Stolen Goods.

WHEREAS it often happens that property supposed or alleged to be stolen is found in the possession of a person who is afterwards convicted as a criminal for stealing, taking, obtaining, extorting, embezzling, appropriating, converting, disposing of, or knowingly receiving other chattels, money, valuable securities, or property, and any other charge or other charges is or are pending against such prisoner, and there is no intention of proceeding upon such other charge or charges, because of the person having been convicted as aforesaid, and because no additional punishment would be imposed if additional convictions were obtained; and whereas it is expedient in such case to give to the owners or other persons entitled to the possession of the property a summary remedy for the recovery thereof;

Preamble.

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. If in such a case the counsel acting for the Crown intimates that the Crown does not intend to proceed upon any charge in respect of the property so found in the prisoner's possession as first aforesaid, the Judge before whom the prisoner was convicted may, upon the application of the prosecutor or other person claiming the property, summarily try at the same sittings of the Court or at a subsequent time, the right of the prisoner and of the claimant to the property; and if the Judge finds that the claimant is the owner or is entitled to the possession thereof, he may order the property to be delivered to the claimant, and the order shall be an absolute protection to the officer or other person who has the custody of the property in delivering the same as directed by the order. R. S. O. 1887, c. 69, s. 1.

Order for delivery of property after summary trial.

2. Nothing herein contained shall be held to bar the right of the person convicted to take proceedings for the recovery of the property against the person receiving the same under the order; and the Judge may, if he thinks fit, require the person in whose favour the order is made to give security for the return of the property to the person so convicted, in case the latter should thereafter be held to be entitled thereto. R. S. O. 1887, c. 69, s. 2.

Right of person convicted not barred by order.

When order
for restitution
not to be
made.

3. If, before an order is made, it appears that a valuable security so found in a prisoner's possession has been *bona fide* paid or discharged by some person liable to the payment thereof, or, being a negotiable instrument, has been *bona fide* taken or received by transfer or delivery by some person for a just and valuable consideration, without notice, or without reasonable cause to suspect, that the same had been stolen or embezzled or criminally taken, obtained, extorted, appropriated, converted, received or disposed of, in such case the Court shall not order the restitution of the security. R. S. O. 1887, c. 69, s. 3.

Application of
Act.

4. Nothing in this Act contained shall apply to the case of a prosecution of a trustee, banker, merchant, attorney, factor, broker, or other agent entrusted with the possession of goods or documents of title to goods, for an offence against *The Criminal Code, 1892*, of Canada. R. S. O. 1887, c. 69, s. 4.

55-56 V. c. 29
(Dom.)

Right of
Crown pre-
served.

5. Nothing herein contained shall affect the right of the Crown to claim property as forfeited. R. S. O. 1887, c. 69, s. 5.

CHAPTER 83.

An Act for more effectually securing the Liberty of the Subject.

<i>Habeas Corpus ad subjiciendum</i> , WHEN	<i>Certiorari</i> TO BRING PAPERS AND PRO-
AWARDED, S. 1.	CEEDINGS BEFORE THE COURT, S. 5.
PROCEEDINGS IN CASE OF DISOBEDI-	APPEAL TO THE COURT OF APPEAL FROM
ENCE TO WRIT, SS. 2, 3.	A REMANDMENT TO CUSTODY, S. 6.
PROCEEDINGS FOR INQUIRING INTO	ACT TO EXTEND TO ALL CASES WHERE
TRUTH OF RETURN, S. 4.	WRIT ISSUES, S. 7.
	RULES OF PRACTICE, S. 8.

WHEREAS the writ of *Habeas Corpus* has been found by Preamble.
 experience to be an expeditious and effectual method of
 restoring any person to his liberty, who has been unjustly
 deprived thereof; and whereas extending the remedy of the
 writ, and enforcing obedience thereunto, and preventing delays
 in the execution thereof, will be advantageous to the public;
 and whereas the provisions made by an Act passed in England,
 in the 31st year of King Charles the Second entitled,
An Act for the better securing the Liberty of the Subject and
for prevention of imprisonment, beyond the seas, only extend
 to cases of commitment or detainer for criminal or supposed
 criminal matter;

Imp. Act, 31,
 Car. ii. c. 2.

Therefore Her Majesty, by and with the advice and con-
 sent of the Legislative Assembly of the Province of Ontario,
 enacts as follows :—

1. Where a person is confined or restrained of his liberty
 (except persons imprisoned for debt, or by process in any
 action, or by the judgment, conviction or order of a Court of
 Record, Court of Oyer and Terminer or General Gaol Delivery,
 or Court of General Sessions of the Peace,) a Judge of the High
 Court shall, upon complaint made, by or on behalf of the person
 so confined or restrained, if it appears by affidavit (or affirmation
 in cases where by law an affirmation is allowed) that there is
 probable and reasonable ground for the complaint, to award
 at any time a writ of *habeas corpus ad subjiciendum* under
 the seal of the Court directed to the person in whose custody
 or power the party so confined or restrained is, returnable
 immediately before the Judge so awarding the same, or before

In what cases
Hab. Corp. ad
Subjiciendum
 may be award-
 ed, and by
 whom.

the Judge in Chambers for the time being, or before a Divisional Court. R. S. O. 1887, c. 70, s. 1.

Proceedings
in case of dis-
obedience to
the writ.

2. If the person to whom a writ of *habeas corpus* is directed according to the provisions of this Act, upon service of the writ, either by the actual delivery thereof to him, or by leaving the same at the place where the party is confined or restrained, with any servant or agent of the person so confining or restraining, wilfully neglects or refuses to make a return or pay obedience thereto, he shall be deemed guilty of a contempt of Court, and the Court or Judge, upon proof by affidavit of wilful disobedience of the writ, may issue a warrant for apprehending and bringing before the Court or Judge, the person so wilfully disobeying the writ, to the end that he may be bound to Her Majesty with two sufficient sureties in such sum as in the warrant is expressed, with the condition to appear in the Court, at a day to be mentioned in the warrant, to answer the matter of contempt with which he is charged. R. S. O. 1887, c. 70, s. 2.

Warrant for
contempt.

Committal.

3. In case of neglect or refusal to become bound as aforesaid, the Court or Judge may commit the person so neglecting or refusing, to the Common Gaol of the County wherein he resides, or may be found, there to remain until he becomes bound as aforesaid, or is discharged by order of the Court, or a Judge; and the recognizance to be taken thereupon shall be returned and filed and shall continue in force until the matter of the contempt has been heard and determined, unless sooner ordered by the Court to be discharged. R. S. O. 1887, c. 70, s. 3.

Proceedings
for inquiring
into the truth
of the matters
alleged in the
return.

4. In cases provided for by this Act, though the return to a writ of *habeas corpus* is good and sufficient in law, the Court or Judge before whom the writ is returnable, may proceed to examine into the truth of the facts set forth in the return, by affidavit or other evidence, and may order and determine touching the discharging, bailing, or remanding the party. R. S. O. 1887, c. 70, s. 4.

Certiorari to
bring proceed-
ings and pa-
pers before
the Court for
examination.

5. In cases in which a writ of *habeas corpus* is issued under the authority of this Act, or otherwise, the Court or Judge may direct the issuing of a writ of *certiorari* directed to the person by whom or by whose authority any person is confined or restrained of his liberty, or other person having the custody or control thereof, requiring him to certify and return to the Court or Judge as by the writ may be provided, all the evidence, depositions, convictions, and all proceedings had or taken, touching or concerning such confinement or restraint of liberty, to the end that the same may be viewed and considered by the Court or Judge, and to the end that the sufficiency thereof to warrant such confinement or restraint, may be determined. R. S. O. 1887, c. 70, s. 5.

6. In case a person confined or restrained of his liberty, is brought before the Court or Judge upon a writ of *habeas corpus*, and is remanded to custody again upon the original order or warrant of commitment, or by virtue of any warrant, order or rule of such Court or Judge, such person may appeal from the decision or judgment of the said Court or Judge to the Court of Appeal; and thereupon the writ of *habeas corpus*, the return thereto, and all and singular the affidavits, depositions, evidence, conviction and other proceedings shall be certified by the proper officer under the seal of the Court, to the Court of Appeal; and the Court of Appeal shall thereupon hear and determine the appeal without any formal pleadings whatever; and if the Court of Appeal adjudges or determines that the confinement or restraint is illegal, the Court shall certify the same, under the seal of the Court, to the person having the custody or charge of the person so confined or restrained, and shall order his immediate discharge, and he shall be discharged accordingly. R. S. O. 1887, c. 70, s. 6.

Appeal from remandment to custody.

Certifying proceedings to Court of Appeal.

Court may order discharge.

7. The several provisions made in this Act, shall extend to all writs of *habeas corpus* awarded in pursuance of the said Act passed in England in the 31st year of the reign of King Charles the Second, or otherwise, in as ample and beneficial a manner as if such writs and the said cases arising thereon had been hereinbefore specially named and provided for respectively. R. S. O. 1887, c. 70, s. 7.

Certain provisions of this Act to extend to all cases where the writ issues.

8. The Judges authorized under *The Judicature Act* to make Rules may, from time to time, and as often as occasion requires, make such Rules of practice in reference to the proceedings on writs of *habeas corpus* as may seem necessary or expedient. R. S. O. 1887, c. 70, s. 8.

Rules and Orders.
Rev. Stat. c. 51.

[See 29-30 V. c. 45, Canada, which is not included in the Revised Statutes of Canada.]

CHAPTER 84.

An Act for expediting the decision of Constitutional
and other provincial Questions.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Reference to
Court author-
ized.

1. The Lieutenant-Governor in Council may refer to the Court of Appeal or to the High Court for hearing or consideration any matter which he thinks fit to refer, and the Court shall thereupon hear or consider the same. 53 V. c. 13, s. 1.

Court to cer-
tify opinion.

2. The Court is to certify to the Lieutenant-Governor in Council its opinion on the question referred, with the reasons therefor which are to be given in like manner as in the case of a judgment in an ordinary action; and any Judge who differs from the opinion of the majority may in like manner certify his opinion with his reasons therefor to the Lieutenant-Governor in Council. 53 V. c. 13, s. 2

Notice to
Attorney-
General of
Canada.

3. In case the matter relates to the constitutional validity of any Act which has heretofore been or shall hereafter be passed by the Legislature of this Province, or of some provision in any such Act, the Attorney-General of Canada shall be notified of the hearing in order that he may be heard if he sees fit. 53 V. c. 13, s. 3.

Notice to per-
sons inter-
ested.

4. The Court shall have power to direct that any person interested, or where there is a class of persons interested, any one or more persons as representatives of such class, shall be notified of the hearing, and such persons shall be entitled to be heard. 53 V. c. 13, s. 4.

Appointment
of counsel to
argue case for
unrepresented
interests.

5. Where any interest affected is not represented by counsel, the Court may in its discretion request some counsel to argue the case in such interest, and the reasonable expenses thereof shall be paid out of the Suitors' Fee Fund or otherwise. 53 V. c. 13, s. 5.

6. The opinion of the Court shall be deemed a judgment of Appeal. the Court, and an appeal shall lie therefrom as in the case of a judgment in an action. 53 V, c. 13, s. 6.

7. In case of the matter being appealed from the High Court to the Court of Appeal, sections 2, 3, 4, 5 and 6 shall apply in like manner as if the original reference had been to the Court of Appeal. An appeal to Her Majesty in Her Privy Council from a judgment of any Court on a reference under this Act shall not be subject to the restrictions contained in the Re-vised Statute of this Province respecting appeals to Her Majesty in Her Privy Council. 53 V. c. 13, s. 7.

Enactments
applicable to
appeals.

Rev. Stat.
c. 48.

CHAPTER 85.

An Act respecting damage to lands by flooding in the new Districts.

APPLICATION, ss. 1-3.	WHEN DIVISION COURT MAY TRY,
ANSWER, s. 4.	s. 13.
INSPECTION OF LAND BY JUDGE, s. 5.	REMOVAL OF CASE TO HIGH COURT,
AWARD AND REGISTRATION OF, ss.	s. 14.
6, 7.	DEFECTS OF FORM, s. 15.
COSTS, ss. 8, 9.	LIMITATION OF CLAIMS, ss. 16, 17.
ENFORCING AWARD, s. 10.	TERRITORY TO WHICH ACT APPLIES,
WITNESSES, s. 11.	s. 18.
	SAVING CLAUSE, s. 19.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Damages in respect of which application may be made.

Rev. Stat. c. 194.

1.—(1) Where it is claimed that any incorporated company which has had conferred upon it the powers authorized by *The Timber Slide Companies' Act*, or similar powers, or that any incorporated lumber company, or any mill owner or other person engaged in lumbering has caused damage to the land of any person by overflowing the same for the purpose of driving logs or timber or for the purpose of a sawmill, and it is alleged that such damage exceeds the sum of \$20, but no greater sum than \$500 is claimed therefor, such person may apply to the Judge of the District or County Court of the District or County, or to the Stipendiary Magistrate (if any), to determine the claim under the provisions of this Act.

(2) When the sum claimed for damages does not exceed \$100 the application shall be made to the Stipendiary Magistrate, where there is one, and where the claim exceeds \$100, or where there is no Stipendiary Magistrate, it shall be made to the Judge of the County or District Court.

(3) When an application is made to the County or District Judge and the damages awarded do not exceed \$100, all additional costs occasioned by the application having been made to the Judge instead of to the Stipendiary Magistrate shall be paid by the applicant, and the Judge shall, in the award or by a subsequent certificate, fix the same and direct their payment. 52 V. c. 16, s. 1.

2. The application may be in the form (or nearly as may be) provided by Schedule A to this Act, and shall be delivered or mailed by registered letter to the said Judge or Magistrate, and there shall be attached thereto an affidavit sworn before a Justice of the Peace, or before a commissioner or other person authorized to take affidavits in the High Court, to the effect that the statements made in the application are true. A notice giving a post office address to which any notice not requiring action in less than eight days may be sent to the persons entitled thereto shall be endorsed on the application or given therein. 52 V. c. 16, s. 2.

Form of application.

3.—(1) A copy of the application, endorsed with a notice requiring the company to answer the same within 21 days, shall be served on the defendant or on the president, treasurer, secretary or manager of the company, or upon an agent of the company having the charge of a branch of its business within the county or district, or upon some person who might be served with a writ of summons for the company, issued out of the High Court.

Service of application.

(2) The defendant may at any time before the petition is left with the Judge or Magistrate or served, tender to the complainant a sum of money in satisfaction of the damages complained of, and if the Judge or Magistrate finds the said tender to have been sufficient he shall so award, and direct the costs to be paid by the complainant.

Tender of amends.

(3) The defendant may pay into Court, with his answer or at any subsequent time, upon notice to the complainant, a sum of money by way of compensation or amends, and if the sum is found to be sufficient the defendant shall pay the complainant costs up to the time of the payment into Court of such sum, and the necessary costs of obtaining the same out of Court, and the subsequent costs shall be in the discretion of the Judge or Magistrate. The Court in this subsection mentioned shall be that Division Court of the district or county within which the flooded land, or some portion thereof, is situate. 52 V. c. 16, s. 3.

Payment into Court.

4.—(1) The answer shall be delivered or mailed by registered letter to the Judge or Magistrate, and a copy thereof to the applicant, within the said time. The answer shall give a post office address, to which any notice not requiring action in less than eight days may be sent. At any time after the expiry of the time mentioned in the notice endorsed on the copy of the application served, the Judge or Magistrate may appoint a day and place for the hearing, and may subsequently make other appointments as shall be required. In fixing the time for the hearing, the Judge or Magistrate shall so far as is practicable, have in view the convenience of both parties and the possibility of their being able at the particular

Service of answer.

Place and time for the hearing.

season of the year conveniently to procure the attendance of necessary witnesses.

Power to amend.

(2) The Judge or Magistrate shall have all the powers of amendment of a Judge of the High Court and may, when, in his opinion, it is necessary in order to do complete justice add all necessary parties to the proceeding, upon such terms as to him shall seem proper. 52 V. c. 16, s. 4.

Inspection of land by judge.

5.—(1) The Judge or Magistrate may personally visit the land in question, before or after the hearing, and may act in part or otherwise upon his own inspection, judgment and general knowledge, as well as upon any evidence adduced before him, and may take evidence on oath to be administered by him.

Increased value.

(2) The Judge or Magistrate in deciding on compensation shall take into consideration the increased value (if any) that by reason of the construction of such works, has been given to any lands of the complainant adjoining or contiguous to the works which have caused the injury and shall deduct such increased value (if any) from the amount found in favour of the complainant.

Filing evidence.

(3) The Judge or Magistrate shall take full notes of the oral evidence given before him, and shall file all documentary evidence or a copy thereof; and in case he proceeds partly on a view or any knowledge or skill possessed by himself, he shall also put in writing a statement thereof sufficiently full to allow the Court to form a judgment of the weight which should be attached thereto. 52 V. c. 16, s. 5.

Award.

6. The Judge or Magistrate shall make his award in writing in respect of the matter; and if the award is in favour of the complainant, he shall state whether it is for past damage only, or covers all future damage which may be sustained by reason of the land being flooded up to a certain height, therein stated and in some way defined. 52 V. c. 16, s. 6.

Registration of award.

7. If the award covers future damage it may, after payment of the amount awarded, be registered in the proper registry office upon the order of the Judge or Magistrate. The award shall be final and conclusive between the parties except where it is hereinafter otherwise provided. 52 V. c. 16, s. 7.

Award to be final.

Costs.

8. The Judge or Magistrate shall, in the award, give such directions as to the payment of costs as he thinks fit, and shall either by the award or by a subsequent certificate, determine the amount of costs to be paid. 52 V. c. 16, s. 8.

Payment of Judge's expenses.

9. The Judge or Magistrate may by the award direct that the expenses and disbursements actually incurred by him in and about the hearing of the complaint and the making of the award shall be paid by either or any of the parties at the time

of the delivery of the award and may further direct that any sum so paid shall be added to or deducted from any other costs or sum by the award ordered to be paid. 52 V. c. 16, s. 11.

10.—(1) Every award or certificate made or given under this Act may be entered and enforced as a judgment of any Division Court in the district or county within the limits of which Division Court the property in respect of which the award is made, or any of it is situate, as a debt of the person or company thereby directed to pay any sum or sums of money. Enforcing award.

(2) The said award may be made a judgment of a Division Court by filing the original or a sworn copy thereof in the office of the clerk of such Division Court and the same shall be entered in the books of the Court by the clerk and shall thereupon become and be a judgment of said Court. The clerk shall thereupon, by prepaid registered letter, immediately notify (Schedule C) the party against whom such judgment is entered, or his solicitor or agent, where he has appeared by a solicitor or agent, of the fact and of the date and amount of such judgment. The date and fact of mailing such registered letter, shall be forthwith entered by the clerk, in the book in which the judgment is entered. Award may be made a judgment of Court.

(3) In case the judgment is so entered for damages to an amount in excess of \$100, the clerk shall add to the notice a statement (Schedule C) that if the party against whom such judgment is entered is dissatisfied therewith, he may within fourteen days from the date of the entry of judgment apply to the Judge or Magistrate who made the award to set aside the said judgment and award and for a rehearing or a new trial, and the proceedings in respect of any such application may be the same as upon an application for a new trial in a Division Court. Rehearing or new trial by defendant.

(4) No execution shall issue, unless otherwise directed by the Judge or Magistrate, until after the expiration of fourteen days from the date of mailing such registered letter and until after any application for a rehearing or a new trial shall have been disposed of, where such application has been made. Execution.

(5) When any such judgment for damages is in excess of \$200, either party may appeal from the judgment or decision of the Judge or Magistrate upon the application for a rehearing or new trial to a single Judge of the High Court of Justice at the weekly sittings at Osgoode Hall, and, subject to Rules of Court, the proceedings in and about such appeal shall be the same as nearly as may be as on an appeal from the judgment or decision of a Judge of the County Court under Chapter 55 of these Revised Statutes. Appeal.

(6) Where his claim exceeds \$100 the complainant shall have the like right to apply for a rehearing or new trial as the party against whom the judgment is entered; and where his claim exceeds \$200 he shall have the like right of appeal to Rehearing or new trial by complainant.

the High Court as such party, if in such cases respectively the Judge, or Magistrate, certifies that in his opinion the complainant *bona fide* claims more than \$100 or \$200, as the case may be. 52 V. c. 16, s. 10.

Attendance of witnesses.

11. Any party to the proceedings may obtain from any Division Court of the district or county a subpoena (Schedule B) requiring the attendance of any person as a witness before the Judge or Magistrate, and also the production of any document to the production of which the party would be entitled at a trial, at the time and place appointed to give evidence; and the non-attendance of such person, or his refusal to be sworn or to give evidence, shall be punishable in the same manner as if the application were a suit pending in the said Court; provided always that the witness's allowance for his expenses in accordance with the County Court scale has been tendered to him. 52 V. c. 16, s. 9; 60 V. c. 14, s. 92.

Joinder of claims.

12.—(1) Where the flooding occurs upon the lands of several persons from the construction of the same works, dam or dams, several persons may join as complainants in the same petition where the damage of each does not exceed the sums respectively mentioned in section 1, though in the aggregate they may exceed such sums and although in respect of different parcels of land. In such case the lands damaged shall be separately described in the petition, and the owners of the respective parcels stated and the amount of the claim of each person shall also be stated. The Judge or Magistrate may, when there are several petitions, upon the application of the defendants, consolidate those within his jurisdiction, and may order the hearing thereof in such manner as in his opinion will best facilitate the ends of justice and cause the least trouble and expense.

(2) In either of the foregoing cases there shall be a separate award as to the claim of each person or in each suit as the case may be, and the costs may be apportioned as the Judge or Magistrate may think just.

(3) Each award shall in such case, when filed with the clerk as is hereinbefore provided, form a separate judgment, and the execution shall be adapted to the proceedings, and the form thereof may be settled by the Judge or Magistrate when necessary.

(4) If the petition or complaint is dismissed, or dismissed as to certain of the complainants, the award need not be separate as to those in respect of whom it is so dismissed. 52 V. c. 16, s. 12.

When action may be brought in Division Court.

13. Where the sum claimed does not exceed \$20, the action for damages in respect of the injuries in section 1 mentioned may be brought in the Division Court, which shall have juris-

diction to hear, try and dispose of the case, notwithstanding any question of the title to lands may be raised; but the Court shall not, in any proceedings under this section, determine the matter of title to land or to any easement or privilege in connection therewith, nor shall the judgment or decision in any case under this section conclude the parties upon any question except the damages by reason of the flooding aforesaid. 52 V. c. 16, s. 13.

14.—(1) Where, in any proceedings under this Act (except under section 13), the title to any land or the right to any easement or privilege is really in controversy and is not raised for the purpose of ousting the jurisdiction of the Judge or Magistrate, and the question of compensation is, in the opinion of the Judge or Magistrate, involved in such question and cannot, in his opinion, be determined without the determination of the question of title or of such right as aforesaid, further proceedings under this Act shall not be had or taken, but either party may obtain the certificate of the Judge or Magistrate stating that such question of title or right as aforesaid is involved in the determination of the proceedings, and such party shall thereupon be entitled to an order from a Judge of the High Court, removing the proceedings into the latter Court, where they shall be disposed of as the Judge or Court may direct. Removal of proceedings into the High Court.

(2) When the Judge or Magistrate proceeds, notwithstanding the question of title or right as aforesaid is raised, the award or judgment shall not conclude the parties upon such question of title or right, but only in respect of the damages by reason of the flooding aforesaid. 52 V. c. 16, s. 14.

15. No proceeding under this Act shall be rendered void or invalid by any want of form, or by reason of any defect or inaccuracy therein. 52 V. c. 16, s. 15. Defects of form not to invalidate proceedings.

16. All proceedings under this Act in respect of damage or injury to lands flooded shall be commenced within six months next after the time of the supposed damage, or if there be continuation of damage, then within six months next after such damage ceases, and not afterwards. 52 V. c. 16, s. 16. Limitation of actions.

17. The Statute of Limitations may where applicable be set up as a defence to proceedings under this Act. 52 V. c. 16, s. 18. Statute of Limitations to apply.

18. This Act shall apply only to the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay and Rainy River, to the Provisional County of Haliburton and to the Electoral Districts of East Victoria, East Peterborough, North Hastings and North and South Renfrew. 52 V., c. 16, s. 17. Application of Act.

Certain Acts
and grants not
affected.

19. Nothing in this Act contained shall affect the provisions of Chapter 142 of these Revised Statutes, intituled "*An Act for protecting the Public interest in Rivers, Streams and Creeks*," nor of any private Act; nor of any reservation or condition in any patent or grant from the Crown. 52 V. c. 16, s. 19.

SCHEDULE A.

FORM OF APPLICATION.

(Section 2.)

In the matter of (*name here the complainant*), complainant, and (*name here the company or person complained of*) defendant.

To His Honour _____, Judge (or Stipendiary Magistrate) of the District (or County) of _____.

The petition of _____, of _____ in the District (or County) of _____, respectfully sheweth, that your petitioner is the patentee (or the locatee) of (*describing the land*.)

That the above-named defendant constructed a dam and flooded (*fourteen acres*) of the said land, and thereby has done damage to your petitioner to the extent of \$300.

That the following are the particulars of the said damage :—

<i>Fourteen acres of land rendered useless.....</i>	<i>\$240 00</i>
<i>Value of crop of oats in the land</i>	<i>60 00</i>
	<i>\$300 00</i>

(or as the case may be).

The complainant is willing to grant to the company the right to flood the said fourteen acres rendered useless (or as the case may be.)

(*Where a Solicitor is employed, say*) Service of any notice or other paper not requiring action in less than eight days may be made upon me by mailing the same by registered letter, addressed to my Solicitor, A. B., at (*name of Post Office, with any more particular address desired*.)

(*Where no Solicitor is employed, say*) Service of any notice or other paper not requiring action in less than eight days may be made upon me by mailing the same by registered letter, addressed to me at (*name of Post Office, with any more particular address desired*.)

The complainant prays that his claim may be heard and disposed of under the provisions of *The Act respecting damage to lands by flooding in the new Districts*.

Dated this _____ day of _____

18 .

J. T., in person.

Or

J. T.,

by A. B., his Solicitor.

52 V. c. 16, Sched. A.

SCHEDULE B.

FORM OF SUBPENA.

(Section 11.)

{ Seal. }

Ontario, To C. D.
District of { You are hereby required to appear in your proper person
before Judge of the District (or County) Court
TO WIT: { of the District (or County) (or before the Stipendiary
Magistrate of) at in the Village of , on
the day of , 18 , at o'clock in the noon,
being the time and place appointed by the said Judge (or Magistrate) for
hearing the application of James Thompson for damages claimed by him
from the (naming the company or person complained of) under The Act
respecting damage to lands by flooding in the new Districts, and that you
then and there testify to all and singular those things which you know in
respect of the matters in question in the said application.

Given under the seal of the Division Court of the District (or
County) of at the day of 18 .
E. F.,
Clerk.

NOTE.—Insert a *duces tecum* where desired.

52 V. c. 16, Sched. B.

SCHEDULE C.

NOTICE OF JUDGMENT.

(Section 10.)

In the matter of Complainant,
and Defendant.

Take notice that there was this day duly filed in this Court the award
of the Judge of (or of the Stipendiary Magistrate
of) in the above matter, and that the same was
thereupon duly entered of judgment against (defendant) for \$
damages and \$ costs.

[When the judgment debt, exclusive of costs, exceeds \$100 add, If you
are dissatisfied with such judgment you may within 14 days from this date
apply to the said Judge (or Magistrate) for a rehearing or for a new trial.]

Yours, etc.,
E. F.,
Clerk of the Division Court of
the District (or County of)

Dated at this day of
To (state name and post office address.)

52 V. c. 16, Sched. C.

7. ADMINISTRATION OF JUSTICE IN CRIMINAL MATTERS.

1. *Justices of the Peace.*

CHAPTER 86.

An Act respecting the Qualification and Appointment of Justices of the Peace.

JUDGES TO BE JUSTICES OF THE PEACE	PENALTY FOR ACTING WITHOUT BEING
EX-OFFICIO, s. 1.	QUALIFIED OR HAVING TAKEN
APPLICATION OF ACT, s. 2.	OATH, s. 16.
APPOINTMENT OF JUSTICES, ss. 3-5	PROCEEDINGS TO ENFORCE PENALTY,
QUALIFICATION, ss. 6-9.	ss. 17-23.
OATH OF QUALIFICATION AND OFFICE,	LIMITATION OF ACTIONS, s. 24.
ss. 10-14.	APPLICATION OF PENALTIES, s. 25.
NEW OATH NOT NECESSARY ON RE-	
APPOINTMENT, s. 15.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Judges to be Justices of the Peace *ex-officio*.

1. Every Judge of the Supreme Court of Canada, of the Exchequer Court of Canada, and of the Supreme Court of Judicature for Ontario, shall be, *ex-officio*, a Justice of the Peace for every county and part of Ontario. R. S. O. 1887, c. 71, s. 1.

Provisions in this Act not to extend to persons holding certain situations.

2. The following sections of this Act shall not apply to the members of Her Majesty's Executive Council, or to the Judges of the Supreme Court of Judicature, or to any County Judge, or to any Police Magistrate, or to Her Majesty's Attorney-General, or to any of Her Majesty's Counsel learned in the Law, or to any Mayor, Alderman, Reeve or Deputy-Reeve of any Municipality. R. S. O. 1887, c. 71, s. 2.

Appointment by the Lieutenant-Governor in Council.

3. It shall be lawful for the Lieutenant-Governor, whenever he thinks fit, to appoint under the Great Seal of Ontario or the Privy Seal of the Lieutenant-Governor, as the case may require, one or more Justices of the Peace in and for each County, City, and Town in the Province and in and for each Provisional Judicial, or Territorial District or Provisional County, or for

any portion of the territory of the Province not attached to any County for ordinary municipal and judicial purposes. R. S. O. 1887, c. 71, s. 3. [See also *Cap. 109, sec. 45.*]

4. Where a new general commission of the peace is issued, all and such like former general commissions shall become absolutely revoked and cancelled; but nothing in this Act contained shall prevent the re-appointment of any Justice of the Peace named in the former commission, if the Lieutenant-Governor thinks fit, and the issue of a supplementary commission of the peace for any County shall not operate as a revocation of a General Commission. R. S. O. 1887, c. 71, s. 4.

Revocation by new Commission.

5. Where a town has been erected into a city, and the council of the city duly organized, every commission of the peace theretofore issued for the town shall cease. R. S. O. 1887, c. 71, s. 5.

Revocation of Commissions for a town when it becomes a city.

6. Except where otherwise specially provided, all Justices of the Peace appointed in this Province shall be of the most sufficient persons dwelling in the counties, districts or places respectively for which they are appointed. R. S. O. 1887, c. 71, s. 6.

Justices of the Peace to be of the most sufficient persons.

7. Except where otherwise specially provided no solicitor in any Court whatever shall be a Justice of the Peace during the time he continues to practise as a solicitor. R. S. O. 1887, c. 71, s. 7.

Unless specially provided no practising solicitor to be Justice of the Peace.

8. No person having, using or exercising the office of sheriff or coroner in and for any county, district or place in Ontario shall be competent or qualified to be a Justice of the Peace or to act as such for any county, district or place wherein he is sheriff or coroner, during the time that he uses or exercises such office, under the penalties hereinafter mentioned; and every act done by a sheriff or coroner, by the authority of any commission of the peace, during the time aforesaid, shall be absolutely void and of none effect; but a Stipendiary Magistrate for any Territorial or Provisional Judicial District may be a coroner for the district. R. S. O. 1887, c. 71, s. 8.

Sheriffs and Coroners acting as such disqualified from acting as Justices of the Peace.

9. Except where otherwise provided by law, no person shall be a Justice of the Peace, or act as such, who has not in his actual possession, to and for his own proper use and benefit, an estate in free and common soccage, in absolute property, or for life, or lease for one or more lives, or originally created for a term not less than twenty-one years, in lands, tenements, or hereditaments, lying and being in this Province, of or above the value of \$1,200 over and above what will satisfy and discharge all incumbrances affecting the same, and over and above all rents and charges payable out of or affecting the same. R. S. O. 1887, c. 71, s. 9.

Property qualification.

Oath of Qualification.

10. Except in the case of Justices who are not required to possess a property qualification, every Justice of the Peace before he takes upon himself to act as a Justice of the Peace, shall take and subscribe the oath following, before some Justice of the Peace, or before any person appointed by the Lieutenant-Governor to administer oaths and declarations, or before the Clerk of the Peace for the county or district for which he has been appointed, that is to say :

“ I, *A. B.*, do swear, that I truly and *bona fide* have to and for my own proper use and benefit such an estate as qualifies me to act as a Justice of the Peace for the County (*or as the case may be*) of _____, according to the true intent and meaning of *The Act respecting the Qualification and Appointment of Justices of the Peace to wit (nature of such estate, whether land and if land, designating it)*, and that the same is lying and being (*or is issuing out of lands, tenements and hereditaments, situate*) within the Township (*or in the several Townships or as the case may be*) of _____.

—So help me God.”

R. S. O. 1887, c. 71, s. 10.

[*Stipendiary and Police Magistrates and Justices appointed under Cap. 109, s. 39 do not require a property qualification, see also Cap. 87, s. 33.*]

Oath of office.

11. A Justice of the Peace, in lieu of the oath of office formerly taken by Justices of the Peace, may take the oath following, and the same may be taken before any other Justice of the Peace, or before any person appointed by the Lieutenant-Governor to administer oaths and declarations, or before the Clerk of the Peace of the county or district for which the Justice has been appointed, that is to say :

“ I, *A. B.*, of the _____, in the County of _____ do swear that I will well and truly serve our Sovereign Lady Queen Victoria (*or the reigning Sovereign for the time being*), in the office of Justice of the Peace, and I will do right to all manner of people, after the laws and usages of this Province, without fear or favour, affection or ill will : So help me God.”

R. S. O. 1887, c. 71, s. 11.

Persons hereafter appointed to qualify within three months or cease to hold office.

12. Every person hereafter appointed a Justice of the Peace shall take the oaths of qualification and of office within three months from the date of the commission under which he is appointed, otherwise the said commission shall, so far as the same relates to him, be deemed to be absolutely revoked and cancelled. 54 V. c. 16, s. 2.

[*Section 1 of 54 V. c. 16, is as follows:—Every person heretofore appointed who has not prior to this Act, taken, or shall not on or before the first day of August next [1891], take the oaths of office and qualification, shall cease to be a Justice of the Peace and the commission under which he was appointed shall, so far as relates to him, be deemed to be absolutely revoked and cancelled.*]

Oaths to be sent to Clerk of Peace.

13. Every oath of qualification, and every oath of office and of allegiance taken by a Justice of the Peace, shall forthwith after the same is taken be transmitted or delivered by the Justice of the Peace to the Clerk of the Peace of the county or district within which the Justice of the Peace is to act, and shall be filed in the office of the Clerk of the Peace. R. S. O. 1887, c. 71, s. 12 (1).

14. The Clerk of the Peace shall, upon demand, forthwith deliver a true and attested copy of the oath to any person paying the sum of twenty cents for the same; which copy being produced as evidence on the trial of any action under this Act, shall have the same force and effect as the record of the oath would have if produced. R. S. O. 1887, c. 71, s. 13.

Clerks of the Peace to deliver on demand an attested copy of such oath.

15. It shall not be necessary for any Justice of the Peace named in any commission who, after his appointment as such Justice by a former commission took the oath of allegiance and the oath of office as a Justice of the Peace, to again take such oaths or either of them before acting under the new commission, nor shall it be necessary for any such Justice who has under any former commission qualified himself in the terms of section 10 of this Act, and deposited the oath in the office of the Clerk of the Peace, to take any oath of qualification before acting under such new commission, unless the Justice, since he took the oath of qualification, has parted with the estate in right of which he qualified. R. S. O. 1887, c. 71, s. 14.

No new oath required from persons who have before qualified.

16. When not otherwise provided, any person who acts as Justice of the Peace in and for any county, or place in this Province, without having taken and subscribed the oath of qualification referred to in section 10, or without being qualified according to the true intent and meaning of this Act, shall for every such offence forfeit the sum of \$100, one moiety to Her Majesty, and the other moiety to such person as sues for the same, to be recovered, with full costs, by action in any Court having competent jurisdiction in the county or place wherein the offence has been committed, and in every such action the proof of his qualification shall be upon the defendant. R. S. O. 1887, c. 71, s. 15.

Penalty on persons acting as Justices of the Peace without having taken the oath or without being qualified.

17. If the defendant in such action intends to insist upon any lands, tenements or real estate, not mentioned in the oath aforesaid, as constituting the whole or any part of his qualification to act as a Justice of the Peace, at the time of the offence alleged against him, he shall, at or before the time of his pleading, deliver to the plaintiff or to his solicitor notice in writing, specifying such lands, tenements or real estate, and the township or place, and the county or district in which the same are respectively situate, and if the plaintiff, in the action, thinks fit thereupon not to proceed any further, he may, with leave of the Court, discontinue on payment of such costs as the defendant may be entitled to, according to the practice of the Court. R. S. O. 1887, c. 71, s. 16.

Manner of proceeding to enforce such penalty.

Defendant may give notice of other lands.

18. Upon the trial of such action, no lands, tenements, or real estate which are not mentioned in the oath or notice aforesaid, shall be insisted upon by the defendant as part of his qualification. R. S. O. 1887, c. 71, s. 17.

Lands not mentioned in the oath or notice inadmissible in proof of qualification.

Where lands in oath chargeable along with other lands.

19. Where the lands, tenements or real property mentioned in the oath or notice, are, together with other lands, tenements or real property belonging to the person taking the oath, or delivering the notice, liable to any charges, rents or incumbrances, then the lands, tenements and real property, mentioned in the oath or notice, shall be deemed liable and chargeable only so far as the other lands, tenements and real property so jointly charged are not sufficient to pay, satisfy or discharge the same. R. S. O. 1887, c. 71, s. 18.

Where qualification is in rent.

20. Where the qualification hereby required, or any part thereof, consists of rent, it shall be sufficient to specify in the oath or notice, so much of the lands, tenements, or real property out of which the rent is issuing, as is of sufficient value to secure the rent. R. S. O. 1887, c. 71, s. 19.

Defendant if successful to recover treble costs.

21. In case the plaintiff in such action discontinues the same, otherwise than as aforesaid, or judgment is given against him, the defendant shall recover treble costs. R. S. O. 1887, c. 71, s. 20.

When subsequent action to be stayed.

22. In case an action is brought, and due notice thereof is given to the defendant, no proceedings shall be had upon any subsequent action, against the same person, for any offence committed before the time of giving the notice; and the Court wherein a subsequent action is brought and pending, may, upon the defendant's motion, stay the proceedings if the first action is prosecuted without fraud and with effect, and no action shall be deemed an action, within this Act, unless it is so prosecuted. R. S. O. 1887, c. 71, s. 21.

Declaration of good faith.

23. The Court in which an action is brought for the recovery of a penalty imposed by this Act, shall require from the plaintiff his declaration upon oath that the action is brought without fraud, and not for the purpose of protecting the defendant from any action which might be brought by any other person, by reason of the same offence; and if the declaration is not made to the satisfaction of the Court, the action shall be immediately dismissed with costs. R. S. O. 1887, c. 71, s. 22.

Limitation of actions.

24. Every action under this Act, shall be commenced within the space of six months next after the fact committed. R. S. O. 1887, c. 71, s. 23.

Fines and penalties to be paid to Provincial Treasurer.

25. The fines and penalties incurred and payable to Her Majesty, by virtue of this Act, shall be paid into the hands of the Provincial Treasurer, for the public uses of the Province. R. S. O. 1887, c. 71, s. 24.

[As to appointment of Justices for a limited period for the purpose of taking cognizance of offences under "The Act to preserve the Forests from destruction by Fire," see Cap. 267.]

CHAPTER 87.

An Act respecting Police Magistrates.

TENURE OF OFFICE, s. 1.

APPOINTMENTS,

In Cities and Towns, ss. 2-8.

Enumeration of population, s. 9.

Deputy police magistrates, ss.
10-14.

In Counties, ss. 15-25.

GENERAL PROVISIONS, ss. 26-37.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Every Police Magistrate shall be appointed by the Lieutenant-Governor, and shall hold office during pleasure. R. S. O. 1887, c. 72, s. 1.

Tenure of
office.

IN CITIES, AND TOWNS.

2.—(1) Every city, and every town having more than five thousand inhabitants, shall have a Police Magistrate, and the salary of the Police Magistrate shall not be less than on the following scale :—

In what cases
Police Magis-
trate to be ap-
pointed.

(a) In cities \$1,400 per annum (but any salary of a larger amount paid to any Police Magistrate, on the 29th day of March, 1873, shall be continued whilst such Magistrate remains in office);

Salaries of
Police Magis-
trates in cities.

(b) In towns—where the population is not more than six thousand—\$800 per annum; where the population is over six thousand and not more than eight thousand—\$1,000 per annum; where the population is over eight thousand—\$1,200 per annum.

In towns.

and the salaries shall be paid half-yearly by the city or town. R. S. O. 1887, c. 72, s. 2.

3.—(1) Every other town may, if the Lieutenant-Governor in Council sees fit to make an appointment, have a Police Magistrate.

Police Magis-
trates in
towns having
less than 5,000
inhabitants.

(2) No appointment of a salaried Police Magistrate shall in the first instance be made for a town not having more than five thousand inhabitants, until a resolution of the council affirming

the expediency thereof is passed by a vote of two-thirds of the members of the council; and the council may by the resolution fix the salary to be paid to the Police Magistrate; but no Police Magistrate appointed before the 29th day of March, 1873, in a town with a less population than five thousand, shall be affected by this section. R. S. O. 1887, c. 72 s. 3.

Second Police
Magistrate in
a city.

4.—(1) The Lieutenant-Governor in Council may appoint a second Police Magistrate for any city, if a resolution affirming the expediency thereof is passed by a vote of two-thirds of the members of the council present, and the salary of such second Police Magistrate in cases where the resolution provides that the appointment shall be with salary, shall be paid quarterly by the city for which he is appointed, and at the rate determined upon by the council and approved by the Lieutenant-Governor in Council.

(2) A division of the duties of the two Police Magistrates may be declared by the Order in Council making the appointment, or by a subsequent order or orders 52 V. c. 10, s. 8.

Reduction of
salary.

5.—(1) The council of a town with a population of less than five thousand inhabitants in which a salaried Police Magistrate has been appointed may, by the vote of two-thirds of all the members of the council, pass a by-law to reduce the salary of the Police Magistrate, to a sum less than that fixed by the council in the first instance, and may name a sum in the by-law at which the Council desires the salary thereafter to be fixed.

(2) Upon being furnished with a duly certified copy of the by-law and with satisfactory proof that the same was passed by a two-thirds vote of all the members of the council, and after notice to the Magistrate, the Lieutenant-Governor in Council may fix such salary to be paid after a date to be named in the Order, either at the sum named in the by-law or at such other sum, not exceeding the sum fixed in the first instance, as to the Lieutenant-Governor in Council may seem meet and proper in view of all the circumstances of the case.

(3) The sum so fixed by the Order in Council shall thereafter be paid as the salary of the Police Magistrate in lieu of that fixed in the first instance as aforesaid. R. S. O. 1887, c. 72, s. 4.

Appointment
without
salary.

6. The Lieutenant-Governor in Council may, at all times, notwithstanding anything in this Act contained, appoint a Police Magistrate without salary for any town. R. S. O. 1887, c. 72, s. 5.

When there
is a Police
Magistrate, no
other Justice
of the Peace
to act.

7. No Justice of the Peace shall admit to bail, or discharge a prisoner, or adjudicate upon, or otherwise act in any case for a town or city where there is a Police Magistrate, except at the Court of General Sessions of the Peace, or in the case of the illness, absence, or at the request of the Police Magistrate. R. S. O. 1887, c. 72, s. 6.

8. Nothing in the preceding sections contained shall interfere with the jurisdiction of Justices of the Peace for the county in which a town having no Police Magistrate is situate, over offences committed in the town. R. S. O. 1887, c. 72. s. 7. Jurisdiction of County Justices in certain towns.

9. Where it is necessary for the purposes of this Act to determine the population of any city or town, the same shall be governed by the census last taken under the authority of the Government of Canada, unless there has been a subsequent enumeration by the assessors of the city or town in which case such enumeration shall govern; and the appointment by the Lieutenant-Governor of a Police Magistrate for any town, shall be conclusive evidence that such town has the population required to authorize the appointment. 60 V. c. 15, Sched. A (21). Population, how determined.

Deputy Police Magistrates.

10.—(1) Where the Lieutenant-Governor in Council is of opinion that the due administration of justice requires the appointment of a Deputy Police Magistrate for a city containing not less than 40,000 inhabitants, the Lieutenant-Governor in Council may appoint a Deputy Police Magistrate accordingly, who shall hold office during pleasure and without salary; but this provision as to salary shall not prevent the municipal council of the city paying a salary if such municipal council sees fit. Lieutenant-Governor may appoint deputy Police Magistrate.

(2) The appointment may be made notwithstanding that the office of Police Magistrate is vacant by death or resignation or that the Police Magistrate is ill or absent at the time of the appointment of such Deputy Police Magistrate. 57 V. c. 29, ss. 1, 2 part.

11. Before doing any act as Deputy Police Magistrate, the person appointed shall take an oath of office similar to that taken by the Police Magistrate, and such oath may be taken before any of the persons authorized to administer the oath of a Police Magistrate, and shall in the same manner be filed in the office of the Clerk of the Peace. 57 V. c. 29, s. 3. Oaths.

12. The appointment by the Lieutenant-Governor of a Deputy Police Magistrate for any city purporting to be made under this Act, or stating the population of said city at some number not less than 40,000, shall be conclusive evidence that the city for which the appointment is made is a city having a population sufficient to authorize such an appointment. 57 V. c. 29, s. 6. Appointment to be conclusive as to population of city.

13.—(1) Every Deputy Police Magistrate shall, in case of the death, illness or absence of the Police Magistrate, or on his request, have authority to perform in the place of the Police Magistrate. Deputy Police Magistrate.

Magistrate all the duties and exercise all the powers of and incident to the office of Police Magistrate and to perform all acts required or allowed to be done by a Police Magistrate. 57 V. c. 29, s. 2, part.

Jurisdiction of Justice of the Peace acting for Magistrate not affected.

(2) Nothing in this section contained shall be construed to prevent one Justice of the Peace from acting for the Police Magistrate or Deputy Police Magistrate or otherwise in all matters in which but for this Act one Justice of the Peace would have jurisdiction in that behalf. 57 V. c. 29, s. 5.

Fees of Deputy Police Magistrate.

14. The Deputy Police Magistrate shall be entitled to receive the same fees and emoluments as are paid to Justices of the Peace, and in case the Police Magistrate is paid by a fixed salary, the said fees and emoluments, whether received by the Deputy Police Magistrate as such Deputy or as a Justice of the Peace, shall be paid to the municipality and form part of its funds, and the other provisions of section 34 of this Act shall also apply to such Deputy. 57 V. c. 29, s. 4.

IN COUNTIES AND DISTRICTS.

When Police Magistrate may be appointed with salary.

15.—(1) Where the County Council of a county passes a resolution affirming the expediency of the appointment of salaried Police Magistrates or a salaried Police Magistrate for the county or part of the county, the Lieutenant-Governor may from time to time make such an appointment, the salary to be paid by the county.

(2) The salary to be paid to the Police Magistrate shall not be less than \$600 and shall be paid quarterly; every such Police Magistrate shall be also entitled to be repaid by the county his reasonable and necessary travelling expenses while attending to his duties. The County Council may at any time by resolution assign to the Police Magistrate a larger salary than is hereinbefore named. R. S. O. 1887, c. 72, s. 8; 55 V. c. 16, ss. 1, 2.

Commission to define jurisdiction.

(3) The commission appointing a Police Magistrate may define part of the county within which part alone in that case he shall have jurisdiction. Every Police Magistrate appointed under this section shall go from place to place within the county or within the part thereof which is designated in his commission, as occasion may arise, for the performance of his duty as Police Magistrate. 55 V. c. 16, s. 3.

Jurisdiction.

(4) The jurisdiction of a Police Magistrate appointed under this section shall not extend to any city, town, village or place in the county which has a Police Magistrate of its own, nor to any case in which the initiatory proceedings have been taken by or before such last mentioned Police Magistrate. 55 V. c. 16, s. 7.

Discontinuance of appointments.

16. In case the County Council in not less than twelve months after the appointment of a Police Magistrate under

the next preceding section passes a resolution affirming the expediency in the opinion of the Council of the discontinuance of a Police Magistrate or Police Magistrates under this Act, the commission of the Police Magistrate or Police Magistrates shall terminate at the end of the next quarter but one after the passing of such resolution. 55 V. c. 16, s. 4.

17. In a county in which there is a Police Magistrate appointed under section 15, no Justice of the Peace shall admit to bail or discharge a prisoner, or adjudicate upon or otherwise act in any case prosecuted under any statute of Ontario, within the district assigned to a Police Magistrate, except at the General Sessions of the Peace, or in the case of the illness or absence or at the request of such Police Magistrate. 55 V. c. 16, s. 5.

Justices of the Peace not to act where Magistrates appointed.

18. Where the Lieutenant-Governor in Council is of opinion that the due administration of justice requires the temporary appointment of a Police Magistrate for a county or district, or any part of a county or district, the Lieutenant-Governor in Council may appoint a Police Magistrate accordingly; the appointee shall hold office without salary; unless in any case the Legislature, or the County Council, or other Municipal Council, shall see fit to appropriate or pay a salary to the Police Magistrate. R. S. O. 1887, c. 72, s. 9.

Lt.-Governor may appoint Police Magistrates without salary.

19.—(1) The Lieutenant-Governor may appoint more Police Magistrates than one for any county or union of counties or district or part of a district in which *The Canada Temperance Act*, or a like Act, is in force. Every such Magistrate shall hold office during pleasure, but shall cease to be such Police Magistrate in case, and from the time that, the said Act, or any new Act which may be substituted therefor, ceases to be in force in the county, or union of counties, or district or part of district aforesaid.

More Police Magistrates than one may be appointed for a county in which Temperance Acts in force.

R. S. C. c. 106.

(2) The Lieutenant-Governor in Council may determine the salary (if any) to be paid to a county or district Police Magistrate appointed under this section; the same not to exceed the salary provided for by section 15 of this Act, and may also allow the travelling expenses of the said Magistrate at some amount not less than \$150 and not more than \$300.

Salary.

(3) Only one Police Magistrate appointed under this section for any county or district, shall receive a salary under authority of the Lieutenant-Governor in Council, but the County Council may grant a salary to any other Police Magistrate or Magistrates so appointed for the county, such other Police Magistrate or Magistrates consenting thereto.

(4) The salary and expenses of such county Police Magistrate shall be paid by the county quarterly. R. S. O. 1887, c. 72, s. 10.

Jurisdiction. (5) The commission appointing a Police Magistrate for a county or district or part thereof, may exclude any city or town which has a Police Magistrate, and otherwise a Police Magistrate appointed under this section for a county or district or part thereof shall have jurisdiction in the whole of the county or district, inclusive of every city and town therein, whether such city or town has or has not also a Police Magistrate of its own. R. S. O. 1887, c. 72, s. 11.

Powers of Police Magistrate. 20. Every Police Magistrate appointed under section 15, 18 or 19, shall have and exercise within the territory for which he is appointed all the powers, authorities, rights, privileges and jurisdiction by law appertaining to Police Magistrates appointed for cities, and shall be entitled to take the same fees as other Justices of the Peace. R. S. O. 1887, c. 72, s. 12.

Towns having Police Magistrates not liable for salaries of County Police Magistrates. 21. Towns not separated from counties and which towns have salaried Police Magistrates, shall not be chargeable with any portion of the salary and expenses paid to Police Magistrates by the counties, and no part of such salary and expenses shall be collected from such town. 51 V. c. 12, s. 1.

Where jurisdiction of Justices excluded. 22. No Justice of the Peace shall admit to bail or discharge a prisoner, or adjudicate upon or otherwise act until after judgment in any case prosecuted under the authority of any statute of Ontario where the initiatory proceedings were taken by or before a Police Magistrate, except at the General Sessions of the Peace, or in the case of the illness, or absence, or at the request, of the Police Magistrate, or in case a vacancy subsequently occurs in the office of Police Magistrate, but nothing in this section shall be construed to give jurisdiction to Justices of the Peace in cases coming within section 17. R. S. O. 1887, c. 72, s. 13; 55 V. c. 16, s. 6, part.

Jurisdiction of Justices where proceedings not begun before Police Magistrate. 23. Except as provided in section 17, nothing in this Act contained shall be construed to interfere with the jurisdiction of Justices of the Peace in counties or districts in cases in which the initiatory proceedings are not taken by or before the Police Magistrate; nor shall anything in this Act contained be construed to prevent other Justices of the Peace from acting with the Police Magistrate, at the request of the Police Magistrate. R. S. O. 1887 c. 72, s. 14; 55 V. c. 16, s. 6, part.

Residence of county Police Magistrates. 24. It shall not be necessary for any county or district Police Magistrate to be actually resident within the county or district for which, or for part of which, he is appointed. R. S. O. 1887, c. 72, s. 15.

Place of holding Court. 25. A Police Magistrate for a county, or part of a county may sit or hold his courts within a town separated from the county, or a city situate within the limits of the county for judicial purposes, whether such city or town has

a Police Magistrate or not, and may in such town or city hear complaints, and dispose thereof as Police Magistrate in respect of all matters arising within the county, or the part of the county for which he is appointed, and do all acts, matters and things in the discharge of the duties and powers of his office as fully as when sitting or holding court in any other part of the county for which he is appointed. R. S. O. 1887, c. 72, s. 16.

26. The County Council shall provide a proper office, together with fuel, light and furniture, for every county Police Magistrate. R. S. O. 1887, c. 72, s. 17, Office of
Police
Magistrate.

GENERAL PROVISIONS.

27. Every Police Magistrate shall, *ex officio*, be a Justice of the Peace for the whole county or union of counties or district, for which, or for part of which, he has been appointed. R. S. O. 1887, c. 72, s. 18. Police
Magistrate
ex officio a
J. P.

28. Every Police Magistrate shall, whenever he deems that there is occasion therefor, have a right to use any court room or town hall belonging to the county or to any municipality therein (which has no Police Magistrate of its own), for the hearing of cases brought before him; provided the magistrate in so using the court room, or town hall, shall not interfere with the ordinary use of the court rooms for the other courts, or with the use of the town hall for the purposes for which the same was built. R. S. O. 1887, c. 72, s. 19. Use of Court
room and
town hall.

Proviso.

29. In case of the absence, or illness, or at the request of a Police Magistrate, any two or more Justices of the Peace may act in his place in any matter within the jurisdiction of the Police Magistrate, and the said Justices of the Peace, or a majority of them shall in such case have all the powers which by any Statute of this Province are given to the Police Magistrate; but this section shall not be construed to prevent one Justice of the Peace from acting for the Police Magistrate, wherever by law one Justice of the Peace has jurisdiction in that behalf. R. S. O. 1887, c. 72, s. 20. Provision in
case of absence
of Police Mag-
istrate.

30. A Police Magistrate sitting as such shall have full power to do alone whatever is authorized, by any statute in force in this Province relating to matters within the legislative authority of the Legislature of the Province, to be done by two or more Justices of the Peace; and every Police Magistrate shall have such power while acting anywhere within the county for which he is *ex officio* a Justice of the Peace. R. S. O. 1887, c. 72, s. 21. Police Magis-
trate to have
the powers
of two
Justices.

Oath of office.

31. The following oath may be taken by any Police Magistrate in lieu of the oath of office heretofore taken by Justices of the Peace, and the same may be taken before any Justice of the Peace or before any person appointed by the Lieutenant-Governor to administer oaths and declarations, or before the Clerk of the Peace of the county or district in which the Police Magistrate is to act.:

I, A. B., of the of in the County of do swear that I will well and truly serve Our Sovereign Lady Queen Victoria, in the office of Police Magistrate, and I will do right to all manner of people after the laws and usages of this Province, without fear or favour, affection or ill will. So help me God.

R. S. O. 1887, c. 72, s. 22.

Oaths to be sent to Clerk of the Peace.

32. Every oath of office and of allegiance taken by a Police Magistrate shall forthwith after the same is taken be transmitted or delivered by the Police Magistrate to the Clerk of the Peace of the county or district within which the Police Magistrate is to act, and shall be filed in the office of the Clerk of the Peace. R. S. O. 1887, c. 72, s. 23.

Property qualification not requisite.

33. No Police Magistrate shall be required to have any property qualification, or to take any further oath to enable him to act as a Justice of the Peace. R. S. O. 1887, c. 72, s. 24.

Fees of Police Magistrate.

34. Every Police Magistrate shall be entitled to receive the same fees and emoluments as are paid to Justices of the Peace; and in case a Police Magistrate is paid by a fixed salary, the said fees and emoluments, whether received by him as Police Magistrate or as a Justice of the Peace, shall be paid to the municipality and form part of its funds; but this section shall not authorize the imposition of such fees by a Police Magistrate, who is paid by fixed salary, upon any Inspector of Licenses or upon any Provincial officer appointed under *The Liquor License Act* in or in respect of any case or complaint prosecuted by him or them under the said License Act or under *The Canada Temperance Act*, or upon any person who, by the written authority of the Attorney-General of this Province, prosecutes any complaint under either of the said Acts. R. S. O. 1887, c. 72, s. 25.

Rev. Stat. c. 245.

R. S. C. c. 106

When Police Magistrate need not act.

35. No Police Magistrate need act in any case arising outside of the limits of the city, town or place for which he is Police Magistrate, unless he sees fit so to do. R. S. O. 1887, c. 72, s. 26.

Police Magistrates not to act in criminal cases.

36.—(1) No Police Magistrate, and no partner or clerk of any Police Magistrate, shall act as agent, solicitor or counsel in any cause, matter, prosecution, or proceeding of a criminal nature;

nor shall such Police Magistrate, partner or clerk act as aforesaid in any case which by law may be investigated or tried before a Police Magistrate or Justice of the Peace. R. S. O. 1887, c. 72, s. 27.

(2) In cities having a population of over 30,000, no Police Magistrate appointed after the 5th day of May, 1894, shall, while acting in such office, practise as a barrister or solicitor. 57 V. c. 28, s. 1.

37. No municipal council shall have power to reduce the salary of a Police Magistrate without the sanction of the Lieutenant-Governor in Council. R. S. O. 1887, c. 72, s. 28. Reduction of Police Magistrate's salary.

38. Except in cases of urgent necessity no attendance of the Police Magistrate shall be required at the Police Office on Sundays or other holidays, or on any day set apart by the Municipal Council as a civic holiday. R. S. O. 1887, c. 72, s. 30. Police Magistrate need not attend on holidays.

CHAPTER 88.

An Act to protect Justices of the Peace and others from Vexatious Actions.

MALICE, ETC., WHEN TO BE ALLEGED IN ACTIONS AGAINST JUSTICES, ETC., ss. 1, 2.	DEFECTS IN FORM NOT TO PREVENT JUSTICES FROM CLAIMING PROTECTION, s. 9.
APPLICATION OF ACT, s. 1 (2).	ACTION WHERE OFFENCE NOT PROPERLY DESCRIBED IN INFORMATION OR WARRANT, s. 10.
WHERE CONVICTION BY ONE JUSTICE AND WARRANT THEREON BY ANOTHER, ACTION TO BE AGAINST CONVICTING JUSTICE, s. 3.	CONDITION ON QUASHING CONVICTION, s. 11.
NO ACTION TO LIE—	SETTING PROCEEDINGS ASIDE, s. 12.
Before conviction is quashed, 4.	LIMITATION OF ACTIONS, s. 13.
Where warrant after summons, not followed by conviction, etc., s. 5.	PROCEDURE IN ACTIONS, ss. 14-22.
Where Justice acts under order of a Judge, s. 6.	PROTECTION OF PERSONS OBEYING WRIT OF MANDAMUS, s. 23.
After conviction affirmed on appeal, s. 7.	ACTION NOT TO LIE FOR CERTAIN MISTAKES AS TO JURISDICTION, s. 24.
Where Act done under Statute held to be <i>ultra vires</i> , etc., s. 8.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

When malice and want of probable cause must be alleged and proved.

1.—(1) In case an action is brought against a Police Magistrate or other Justice of the Peace for any act done by him in the execution of his duty as such Justice, with respect to any matter within his jurisdiction as such Justice, or against any other officer or person fulfilling any public duty, for anything by him done in the performance of such public duty, whether such duty arises out of the Common Law or is imposed by any Act either of the Imperial or Dominion Parliament, or of the Legislature of this Province, it shall be expressly alleged in the statement of claim that the act was done maliciously and without reasonable and probable cause; and if at the trial of the action, the plaintiff fails to prove such allegation, he shall be non-suited, or a verdict or judgment shall be given for the defendant.

Application of ss. 1-23 to certain officers.

(2) So far as applicable, sections 1 to 23 of this Act shall apply for the protection of every officer and person mentioned in the preceding subsection, for anything done in the execution of his office as therein expressed. R. S. O. 1887, c. 73, s. 1.

2. For any act done by a Justice of the Peace in a matter in which by law he has not jurisdiction, or in which he has exceeded his jurisdiction, or for any act done under a conviction or order made or warrant issued by the Justice in such matter, any person injured thereby may maintain an action against the Justice in the same case as he might have done before the passing of this Act, without making any allegation in his statement of claim that the act complained of was done maliciously and without reasonable and probable cause. R. S. O. 1887, c. 73, s. 2.

When action lies without allegation of malice, etc.

3. Where a conviction or order has been made by a Justice of the Peace, and a warrant of distress or of commitment has been granted thereon by some other Justice of the Peace, *bona fide* and without collusion, no action shall be brought against the Justice who granted the warrant by reason of any defect in the conviction or order, or for any want of jurisdiction in the Justice who made the same, but the action (if any is brought) shall be against the Justice who made the conviction or order. R. S. O. 1887, c. 73, s. 3.

If one Justice makes a conviction, etc., and another grants a warrant, action must be against the former.

4. No action as mentioned in this Act shall be brought for anything done under a conviction or order until the conviction or order has been quashed, either upon appeal or upon application to the High Court; nor shall any such action be brought for anything done under any warrant issued by such Justice to procure the appearance of the party, and which has been followed by a conviction or order in the same matter, until the conviction or order has been quashed as aforesaid. R. S. O. 1887, c. 73, s. 4.

No action for anything done under a conviction or order until the same is quashed.

5. In case the last mentioned warrant has not been followed by a conviction or order, or it is a warrant upon an information for an alleged indictable offence, if a summons was issued previously to the warrant, and the summons was served upon such person, either personally or by leaving the same for him with some person at his last or most usual place of abode, and he did not appear according to the exigency of the summons, in such case no such action shall be maintained against the Justice for anything done under the warrant. R. S. O. 1887, c. 73, s. 5.

No action for anything done under a warrant to compel appearance, if a summons previously served and not obeyed.

6. In all cases where a Justice of the Peace refuses to do any act relating to the duties of his office as such Justice, the party requiring the act to be done may, upon an affidavit of the facts, apply to the High Court or to the Judge of the County Court of the county or united counties in which the Justice resides, for an order *nisi* calling upon the Justice, and also the party to be affected by the act, to shew cause why the act

If a justice refuses to do any act, the High Court or the County Judge may order him to do it, and no action shall then lie against him for doing it.

should not be done; and if, after due service of the order, good cause is not shown against it, the Court or Judge may make the same absolute, with or without or upon payment of costs, as may seem meet, and the Justice, upon being served with the order absolute, shall obey the same, and shall do the act required; and no action or proceeding shall be commenced or prosecuted against the Justice for having obeyed the order and done the act required as aforesaid. R. S. O. 1887, c. 73, s. 6.

After conviction, etc., confirmed on appeal, no action to lie for an act done under a warrant.

7. In case a Justice of the Peace has granted a warrant of distress or a warrant of commitment upon any conviction or order which, either before or after the granting of the warrant has been confirmed upon appeal, no action shall be brought against the Justice by reason of any defect in the conviction or order for anything done under the warrant. R. S. O. 1887, c. 73, s. 7.

Protection to those acting under *ultra vires* statutes.

8.—(1) No action shall be brought against any Judge, Stipendiary or Police Magistrate, Justice of the Peace, or officer, for any act or thing by him done under the supposed authority of a statute or statutory provision of the Province, or of the Dominion of Canada, which statute or statutory provision was beyond the legislative jurisdiction of the Legislature of the Province or of the Parliament of Canada, as the case may be, provided the action would not lie against him, if the statute or statutory provision had been within the legislative jurisdiction of the Parliament or Legislature, which assumed to enact the same.

Cases wherein above does not prevent action.

(2) Where, notwithstanding the above subsection, an action is sustainable against a Judge, Stipendiary or Police Magistrate, Justice of the Peace, or officer, for any act or thing by him done under the authority of a statute, or statutory provision, of the description in the said subsection mentioned, the action shall only be sustainable subject to the like provisions as the action would be subject to if the statute or statutory provision were valid; and the like damages, and no more, shall be recoverable in such action as under the like circumstances could have been recovered if the statute or statutory provision had been valid. R. S. O. 1887, c. 73, s. 8.

Defects in form of informations or warrants not to prevent Justices from claiming protection hereunder.

9. No defect in form, in an information or warrant taken before or signed by a Justice of the Peace, shall prevent the Justice from claiming the benefit and protection of this Act if the Court before which, or the Judge before whom, the action is tried shall be of opinion that the Justice acted in good faith, and that the informant or complainant intended, by the facts stated to the Justice, to charge the commission of an offence which, if the same had been set forth in proper form in the information or warrant, would have been one within the jurisdiction of the Justice; and in such case the informant or com-

plainant shall be liable to prosecution, as if the information had charged in proper form the commission of the offence so intended to be charged. R. S. O. 1887, c. 73, s. 9.

10. No person who has in good faith as aforesaid intended to charge another person, who has been arrested by the direction of the person so charging the said offence, under a warrant signed by a Justice of the Peace, with the commission of any offence, shall be liable to be sued for a trespass, in consequence only of the information sworn before a Justice of the Peace, or the warrant signed by him not containing a proper description of the offence. R. S. O. 1887, c. 73, s. 11.

Actions when information does not contain a proper description of the offence.

11. Where an order is made by the High Court quashing a summary conviction the Court may, if it thinks fit so to do, provide that no action for a trespass shall be brought against the Justice of the Peace who made the conviction. R. S. O. 1887, c. 73, s. 10.

Condition on quashing convictions.

12. In case an action is brought, where by this Act it is enacted that no action shall be brought under the particular circumstances, a Judge of the Court in which the action is pending shall, upon application of the defendant, and upon an affidavit of the facts, set aside the proceedings in the action, with or without costs, as to him seems meet. R. S. O. 1887, c. 73, s. 12.

If any action is brought contrary to this Act, Judge may set aside the proceedings.

13. No action shall be brought against a Justice of the Peace for anything done by him in the execution of his office unless the same is commenced within six months next after the act complained of was committed. R. S. O. 1887, c. 73, s. 13.

Limitation of actions.

14. No such action shall be commenced against a Justice of the Peace until one month at least after a notice in writing of the intended action has been delivered to him, or left for him at his usual place of abode, by the person intending to commence the action, or by his solicitor or agent, in which notice the cause of action, and the Court in which the same is intended to be brought, shall be clearly and explicitly stated; and upon the back thereof shall be endorsed the name and place of abode of the person intending to sue, and also the name and place of abode or of business of his solicitor or agent, if the notice is served by the solicitor or agent. R. S. O. 1887, c. 73, s. 14.

Notice of action to be given.

15. Every such action shall be tried in the county where the act complained of was committed, and if brought in a County or Division Court, the action shall be brought in the Court of the county or division within which the act complained of was committed, or in which the defendant resides, and

Place of trial. Defendant may plead not guilty by statute.

the defendant may plead not guilty by statute, and may, at the trial of the action, give any special matter of defence, excuse or justification in evidence. R. S. O. 1887, c. 73, s. 15.

Action not to be brought in County or Division Court, if the Justice objects.

16. No action shall be brought in any County or Division Court against a Justice of the Peace for anything done by him in the execution of his office if the Justice objects thereto; and if, within six days after being served with a notice of the action, the Justice, or his solicitor or agent, gives a written notice to the plaintiff in the intended action that he objects to being sued in such County or Division Court for such cause of action, no proceedings shall afterwards be had in such County or Division Court in the action, but it shall not be necessary to give another notice of action in order to sue the Justice in any other Court. R. S. O. 1887, c. 73, s. 16.

Tender and payment of money into Court by Justice.

17. In every such case, after notice of action has been given as aforesaid, and before an action has been commenced, the Justice to whom the notice has been given may tender to the person complaining, or to his solicitor or agent, such sum of money as he thinks fit as amends for the injury complained of in the notice; and after the action has been commenced, and at any time before issue joined therein, the defendant, if he has not made a tender, or in addition to the tender, may pay into Court such sum of money as he thinks fit, and the tender and payment of money into Court, or either of them, may afterwards be given in evidence by the defendant at the trial under such defence of not guilty. R. S. O. 1887 c. 73, s. 17.

If Judge or jury think plaintiff entitled to no greater damages, verdict to be for defendant.

18. If the jury (or the Judge, if the case be tried without a jury) at the trial be of opinion that the plaintiff is not entitled to damages beyond the sum so tendered or paid into Court, a verdict or judgment shall be given for the defendant, and the sum of money, if any, so paid into Court, or so much thereof as is sufficient to pay or satisfy the defendant's costs in that behalf, shall thereupon be paid out of Court to him, and the residue, if any, shall be paid to the plaintiff. R. S. O. 1887, c. 73, s. 18.

If plaintiff fails to prove certain particulars, he shall be non-suited or verdict given for the defendant.

19. If at the trial of the action the plaintiff does not prove,

1. That the action was brought within the time hereinbefore limited in that behalf; and

2. That notice as aforesaid was given one month before the action was commenced; and

3. The cause of action stated in the notice; and

4. That the cause of action arose in the county or district, the County Town of which is named in the statement of claim as the place of trial; and

5. Where the plaintiff sues in a County or Division Court, that the cause of action arose within the county or division for which such Court is held ;

Then, and in any such case, the plaintiff shall be nonsuited, or a verdict shall be given for the defendant. R. S. O. 1887, c. 73, s. 20.

20. In case the plaintiff in such action is entitled to recover, and he proves the levying or payment of any penalty or sum of money under any conviction or order as parcel of the damages he seeks to recover, or if he proves that he was imprisoned under the conviction or order, and seeks to recover damages for the imprisonment, and it is proved that he was actually guilty of the offence of which he was so convicted, or that he was liable by law to pay the sum he was so ordered to pay, and with respect to the imprisonment that he has undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay, he shall not be entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond the sum of three cents as damages for the imprisonment, or any costs of suit whatsoever. R. S. O. 1887, c. 73, s. 21.

21. If the plaintiff in such action recovers a verdict or the defendant allows judgment to pass against him by default, the plaintiff shall be entitled to costs in the same manner as if this Act had not been passed. R. S. O. 1887, c. 73, s. 22.

22. If in any case it is alleged in the statement of claim, or in the summons and particulars if the plaintiff sues in the Division Court, that the act complained of was done maliciously and without reasonable or probable cause, the plaintiff, if he recovers a verdict for any damages, or if the defendant allows judgment to pass against him by default, shall be entitled to his costs to be taxed as between solicitor and client; and in every action against a Justice of the Peace for anything done by him in the execution of his office, the defendant, if he obtains judgment, shall be entitled to his full costs in that behalf, to be taxed as between solicitor and client. R. S. O. 1887, c. 73, s. 23.

23. No action, or other proceeding shall be commenced or prosecuted against any person or persons whomsoever, for or by reason of anything done in obedience to a peremptory writ of *mandamus* issued by any Court having authority to issue writs of *mandamus*. R. S. O. 1887, c. 73, s. 24.

24—(1) No action shall lie against a Stipendiary or Police Magistrate for or by reason of any process issued, or conviction made by, or any proceedings of any kind taken before him alone, or authorized by him, in good faith, in any case which,

Damages nominal in certain cases.

If plaintiff recovers verdict, etc., to be entitled to costs.

If malice and want of probable cause alleged and plaintiff recovers, he shall be entitled to full costs.

When defendant is entitled to full costs, etc.

Persons obeying writ of *mandamus*, protected.

Action not to lie against stipendiary or police magistrates, etc.,

for certain
mistakes as to
jurisdiction.

by the law applicable thereto, was not cognizable by such Police Magistrate, or not by him sitting alone, or which should have been heard by two Justices of the Peace, or by the mayor of a city or town within the district, county, union of counties, or part of a district or county or union of counties, for which the Stipendiary or Police Magistrate was appointed.

(2) This section shall not prevent an action from being maintained where and so far as the action would be maintainable against the mayor or Justices of the Peace if the process had been issued or conviction made by, or proceedings taken before, or authority given by him or them, in a matter in which he or they had jurisdiction.

(3) No action shall lie against a constable or peace officer for anything done by him under and by virtue of process issued or authority given, as in sub-section 1 mentioned, unless the action would be maintainable if the process had been issued or authority given by a person or persons legally qualified to issue the process or give the authority. R. S. O. 1887, c. 72, s. 29 (1-3).

CHAPTER 89.

An Act to provide for Security for Costs in certain actions against Justices of the Peace and others.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In case an action or other legal proceeding is brought against a Police Magistrate or other Justice of the Peace, or against any other officer or person fulfilling any public duty, whether such duty arises out of the Common Law, or is imposed by any Act either of the Imperial or Dominion Parliament, or of the Legislature of this Province, in respect of any cause of action to which the provisions of *The Act to protect Justices of the Peace and others from Veratious Actions* is applicable, the defendant may at any time after the service of the writ, apply to the Court or to a Judge for security for costs. 53 V. c. 23, s. 1; 59 V. c. 18, s. 7. Applications for security for costs in actions against Magistrates. Rev. Stat. c. 88.
2. The application shall be upon notice and an affidavit by the defendant or his agent, shewing the nature of the action and of the defence, and shewing to the satisfaction of the Court or Judge that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a verdict or judgment should be given in favor of the defendant, and that the defendant has a good defence upon the merits, or that the grounds of action are trivial or frivolous; and thereupon the Court or Judge, in its or his discretion in view of all the circumstances, may make an order that the plaintiff shall give security for the costs to be incurred in such action. 53 V. c. 23, s. 2, part. Procedure upon application.
3. The security ordered shall be given in accordance with the practice in cases where a plaintiff resides out of the Province; and the order shall be a stay of proceedings in the action until security is given. 53 V. c. 23, s. 2, part. What security to be given.

CHAPTER 90.

An Act respecting Procedure before Justices of the Peace and Summary Convictions and Appeals to General Sessions.

PROCEDURE BEFORE JUSTICES.

Except in appeals, to be according to the practice under the Acts of Canada, from time to time in force, ss. 1, 2.

Collection of penalties, s. 3.

COSTS, ss. 4, 5.

CONVICTIONS TO BE TRANSMITTED TO CLERK OF PEACE, s. 6.

APPEALS FROM JUSTICES TO GENERAL SESSIONS, ss. 7-11.

IN CASE OF AMENDMENT OF ACTS OF CANADA, WHEN AMENDED ACTS TO APPLY, s. 12.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Ontario Summary Convictions Act.*"

PROCEDURE BEFORE JUSTICES.

Procedure before Justices, etc., to be the same as under Dominion Act respecting summary convictions.

2.—1 Where a penalty or punishment is imposed under the authority of any statute of the Province of Ontario, or of any other statute or law in force in Ontario, and relating to matters within the legislative authority of the Legislature of the Province, and is recoverable before, or may be inflicted by, a Justice of the Peace, or a Police or Stipendiary Magistrate, the like proceedings, and no other, shall and may be had for recovering the penalty, compelling the attendance of the parties or witnesses, hearing the complaint, and for the conduct of the Court, the taking and executing of recognizances, and the infliction of the punishment, and otherwise in respect thereof, and the convicting Justice, or Police or Stipendiary Magistrate, shall perform the like duties in respect thereto, and in respect of any conviction or order made by him or them by virtue of such statute, as, under the statutes of the Dominion of Canada then in force, might be had and should be performed, if the penalty or punishment had been imposed by a statute of Canada unless in any Act hereafter passed imposing the penalty or punishment, it is otherwise declared.

Procedure on appeals not affected.

2) Nothing in this section contained shall confer upon any person who considers himself aggrieved by a conviction or order made by any Justice, or Police or Stipendiary Magistrate, the right of appealing to the General Sessions of the Peace, or shall affect procedure on appeals. R. S. O. 1887, c. 74, s. 1.

(3) Subject to any statute of the Province in this behalf, the procedure for enforcing punishment by fine, penalty or imprisonment for contravention of any statute of the Province, shall conform as nearly as may be to the procedure which might at the time be had under any statute of the Dominion of Canada enforcing the like punishment under such statute. 52 V. c. 10, s. 9.

Procedure for enforcing fines and penalties.

3.—(1) In the case of a summary conviction, or of an order made by a Justice of the Peace, Police Magistrate or Stipendiary Magistrate, whereby any fine, penalty, or costs is or are by the conviction or order of such Justice, Police or Stipendiary Magistrate, adjudged to be paid, the conviction or order shall not be void because of time having been allowed for the payment of the sum, or any part thereof, or because of payment having been received of part of the sum or sums adjudged to be paid, or because of the convicting Justice, Police or Stipendiary Magistrate having accepted security for the payment of any such sum, or of any part thereof.

Collection of penalties imposed upon summary convictions.

(2) Nothing in this section contained shall authorize any Justice of the Peace, Police Magistrate or Stipendiary Magistrate to allow payment by instalments or to give time for payment of such fine, penalty or costs in any case in which he has not heretofore had such authority. 53 V. c. 24, s. 1.

4.—(1) In all cases of summary conviction, or of orders made by a Justice of the Peace, Police Magistrate, or Stipendiary Magistrate under this Act, the Justice, Police Magistrate or Stipendiary Magistrate may, in his discretion, award and order, in and by the conviction or order, that the defendant shall pay to the prosecutor or complainant, such costs as to the Justice, Police Magistrate or Stipendiary Magistrate seem reasonable in that behalf, the same not being inconsistent with the fees established by law to be taken on proceedings had by and before Justices of the Peace.

Magistrate may order defendant to pay costs.

(2) In cases where the Justice or Police Magistrate or Stipendiary Magistrate, instead of convicting or making any order, dismisses the information or complaint, he may, in his discretion, in and by the order of dismissal, award and order that the prosecutor or complainant shall pay to the defendant such costs as to the Justice, or Police Magistrate or Stipendiary Magistrate, seem reasonable and are consistent with law. R. S. O. 1887, c. 74, s. 2, (1, 2).

Magistrate may order prosecutor to pay costs.

(3) The sums so allowed for costs shall be specified in the conviction or order, or order for dismissal, and shall be recoverable in the same manner and under the same warrants as a penalty adjudged to be paid by the conviction or order is to be recovered, and such costs shall extend to and be deemed to include costs and charges of the distress and also the costs and charges of the commitment, and conveying the defendant, or the prosecutor, or the complainant, as the case may be, to

Recovery of costs with penalty.

prison, the amount thereof being ascertained and stated in such commitment. R. S. O. 1887, c. 74, s. 2 (3); 53 V. c. 24, s. 2, part.

Recovery of costs where no penalty.

(4) Where there is no penalty to be recovered, or where the information or complaint is dismissed, the costs shall be recoverable only by distress and sale of the goods and chattels of the party. R. S. O. 1887, c. 74, s. 2, (4); 60 V. c. 15, Sched. A. (22).

Costs to be kept separate in returns.

(5) The sums allowed for costs as aforesaid shall be entered by Police or Stipendiary Magistrates in a separate column or in the column for observations in the book required to be kept under *The Act respecting returns of convictions by Stipendiary or Police Magistrates*. 53 V. c. 24, s. 2, part.

Rev. Stat. c. 94.

5. The provisions for costs and the recovery thereof in the foregoing sections shall extend to proceedings on convictions or orders, under the authority of *The Municipal Act* or of by-laws of municipal councils passed thereunder, or where it is provided that the recovery and enforcement of penalties is to be in the manner and to the extent provided in the case of penalties imposed under such Act, or under such by-laws; and shall extend to by-laws heretofore passed as well as to future by-laws. 53 V. c. 24, s. 3.

Rev. Stat. c. 223.

Convictions and recognizances to be transmitted to Clerk of the Peace.

6. The Clerk of the Peace for the county shall be the proper officer to whom shall be transmitted convictions to be filed, and recognizances in respect of which proceedings require to be taken at the General Sessions of the Peace. R. S. O. 1887, c. 74, s. 3.

APPEALS TO GENERAL SESSIONS.

Appeal from convictions to the General Sessions.

7. Any party who considers himself aggrieved by a conviction or order made by a Justice of the Peace, or by a Police or Stipendiary Magistrate, under the authority of any statute in force in Ontario, and relating to matters within the legislative authority of the Legislature of Ontario, may, unless it is otherwise provided by the particular Act under which the conviction or order is made, appeal therefrom to the General Sessions of the Peace. R. S. O. 1887, c. 74, s. 4.

Practice and proceedings on appeal.

8. In case an appeal lies to the General Sessions of the Peace from a conviction or order made, as aforesaid, under the authority of a statute of the Legislature of Ontario or other statute or law in force in the Province of Ontario, and relating to matters within the legislative authority of the Legislature, the practice and proceedings on the appeal and preliminary thereto, and otherwise in respect thereof, save as is herein otherwise expressed, shall be the same as the practice and proceedings under the statutes of the Dominion of Canada then in force, on an appeal to the General Sessions of the Peace from a conviction before a Justice of the Peace, made under the authority of a statute of Canada.

except that either of the parties to the appeal may call witnesses and adduce evidence in addition to the witnesses called, and evidence adduced at the original hearing. R. S. O. 1887, c. 74, s. 5.

Evidence on appeal.

9.—(1) Where an appeal lies to the General Sessions of the Peace from a conviction or order made by a Justice of the Peace, or by a Police or Stipendiary Magistrate, under the authority of any statute in force in Ontario, and relating to matters within the legislative authority of the Legislature of Ontario, the notice of appeal may be given within ten days after the conviction or order.

Notice of appeal.

(2) If the conviction or order is made more than fourteen days before the sittings of the General Sessions, the appeal shall be made to the then next sittings of the Court, but if the conviction or order be made within fourteen days of the sittings of the Court, then to the second sittings next after the conviction or order. R. S. O. 1887, c. 74, s. 6.

10. If upon the trial at the General Sessions of the Peace of an appeal from a conviction or order of a Justice of the Peace or of a Police or Stipendiary Magistrate upon any matter within the legislative authority of the Legislature of Ontario, it is proved that a person whose deposition has been taken upon the original hearing, is dead, or is so ill as not to be able to attend and give evidence, or is absent from Ontario, or if it is proved in like manner that after diligent inquiry such person cannot be found to be served with a subpoena, and if it is also proved that such deposition was taken in presence of the person accused, and that he, his counsel or solicitor, had a full opportunity of cross-examining the witness, and if the deposition purports to be signed by the Justice by or before whom the same purports to have been taken, it shall be received as evidence in the prosecution without further proof thereof, unless it is proved that the deposition was not in fact signed by the Justice purporting to have signed the same. R. S. O. 1887, c. 74, s. 7.

At General Sessions of the Peace, on appeal, the original depositions to be evidence in certain cases.

11. An appellant may abandon his appeal by giving the opposite party notice of his intention in writing six days before the Sessions appealed to; and thereupon the Justice, or Police or Stipendiary Magistrate, may tax the additional costs if any, of the respondent, and add the same to the original costs, and proceed on the original conviction, or order, in the same manner as if there had been no appeal thereon. R. S. O. 1887, c. 74, s. 8.

Abandonment of appeal; costs.

WHEN AMENDED ACTS OF CANADA TO APPLY.

12. If the Parliament of Canada amends any statute, the operation whereof is extended by virtue of this Act, no such amendment shall have any force in Ontario, by virtue of this Act, until after the termination of the Session of the Legislature of Ontario held next after the passing of the amending statute. R. S. O. 1887, c. 74, s. 9.

When amendments of Dominion Acts shall take effect under this Act.

CHAPTER 91.

An Act respecting Appeals to the Court of Appeal on Prosecutions to enforce Penalties and Punish Offences under Provincial Acts.

INTERPRETATION, s. 1.
APPLICATION OF ACT, s. 2.
WHEN APPEAL LIES, s. 3.
OBJECTIONS TO BE TAKEN BY DEFENDANT, s. 4.
CASE STATED BY JUSTICE, ss. 5-9.
WRIT FOR REMOVAL UNNECESSARY, s. 10.

RULES, s. 11.
ENFORCING RECOGNIZANCE, s. 12.
PROCEEDINGS UNDER ACT TO BAR OTHER APPEALS, s. 13.
COSTS WHEN ATTORNEY-GENERAL APPEALS, s. 14.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpretation
"Justice."

1. The expression "Justice" means a Justice of the Peace and includes two or more Justices, if two or more Justices act, or have jurisdiction; and also includes a Police Magistrate, and a Stipendiary Magistrate. 52 V. c. 15, s. 2.

Application of
Act.

2. This Act shall not apply to any prosecution under the authority of an Act of the Parliament of Canada, nor to any prosecution except for an offence the penalty or punishment for which is imposed under the authority of a statute of this Province, or of a statute or law in force therein and within the legislative authority of the Legislature of the Province as regards such penalty or punishment. 52 V. c. 15, s. 1.

Appeal from
orders
quashing
convictions.

3.—(1) An appeal to the Court of Appeal shall lie from a judgment or decision of the High Court, or a Judge thereof, upon an application to quash a conviction made under a statute of the Legislature of Ontario creating an offence punishable by summary conviction before a Justice, or to discharge a prisoner who is held in custody under such conviction, and without giving any security on the appeal, whether the conviction is quashed or the prisoner discharged, or the application is refused:

Proviso.

30-31 V. c. 3.

Provided that the Attorney-General for Canada or the Attorney-General for Ontario, certifies his opinion that the decision involves a question on the construction of *The British North America Act*, and that the same is of sufficient importance to justify the case being appealed.

(2) Upon such certificate being produced to the Clerk of the Court in which the judgment or decision has been given, the

Clerk shall certify under the seal of the Court the proceedings had before, or in said Court, to the Court of Appeal; and the Court of Appeal shall thereupon hear and determine the appeal without any formal pleadings, and shall give such order for carrying into effect the judgment of that Court as the circumstances of the case require. Such judgment shall be appealable like other judgments of the said Court. 52 V. c. 15, s. 3.

4.—(1) Every objection to a prosecution for an offence under a statute of this Province, or for the recovery of a penalty under a statute of this Province, on the ground of the constitutional invalidity of such statute, shall be taken by demurrer before the defendant has pleaded and not otherwise; and the Court shall determine the validity of the objection raised by the demurrer and give judgment thereon; and no motion in arrest of judgment shall be allowed for any question in respect of such indictment on the ground aforesaid where the objection might have been taken advantage of by demurrer.

Determina-
tion of objec-
tion to prose-
cution on
ground of
constitutional
invalidity of
statute.

(2) If judgment is given for the Crown on the demurrer the defendant shall, subject to the right of appeal hereinafter provided, and to any order which the Court may make, be deemed without any further form to have put himself upon the country for trial; and the Court may in the usual manner order a jury for the trial of such person accordingly.

(3) An appeal shall lie from the judgment of the Court upon the demurrer to the Court of Appeal, by the Attorney-General for Canada, or by the Attorney-General for Ontario, or by the defendant.

(4) A copy of the indictment, information or statement, and the demurrer and of the judgment of the Court entered thereon, certified under the hand of the Judge of the Court, shall be transmitted forthwith by the Clerk of the Court to the Court of Appeal.

(5) The Court of Appeal shall hear and determine the question, and reverse or affirm the judgment given by the Judge on the demurrer, and shall order an entry of the judgment of the Court of Appeal to be made on the record accordingly; which judgment shall be appealable like other judgments of the said Court.

(6) The judgment or order of the Court of Appeal shall be certified under the hand of the Chief Justice or senior Judge to the Clerk of the Court from which the indictment was transmitted to the Court of Appeal; and the clerk shall enter the same on the original record in proper form. 52 V. c. 15, s. 4.

Case may be stated by Justice for decision of Court of Appeal.

5.—(1) After the determination by a Justice of any information or complaint which he has power to determine in a summary way, under the authority of a statute of this Province, either party to the proceeding, if dissatisfied with the determination as being erroneous in point of law, as regards the constitutional validity of the statute may apply in writing, within ten days after the same, to the said Justice, to state and sign a case setting forth the facts and the grounds of his determination, for the judgment thereon of the Court of Appeal.

(2) Such party, hereinafter called "the appellant," shall, within three days after receiving such case, transmit the same to the Court of Appeal, first giving notice, in writing, of such appeal, with a copy of the case so stated and signed, to the other party to the proceeding in which the determination was given, hereinafter called "the respondent." 52 V. c. 15, s. 5.

Security on appeal.

6.—(1) Except as hereinafter provided, the appellant, at the time of making the application, and before a case is stated and delivered to him by the Justice, shall enter into a recognizance before the Justice, with or without a surety or sureties, and in such sum as to the Justice seems proper, conditioned to prosecute the appeal without delay, and to submit to the judgment of the Court of Appeal, and to pay such costs as may be awarded by the same.

(2) The appellant shall at the same time, and before he shall be entitled to have the case delivered to him, pay to the Justice his fees in respect of the case and recognizance, and any other fees to which he shall be entitled; which fees, except such as are already provided for by law, shall be according to the Schedule to this Act.

(3) The appellant, if then in custody, shall be liberated if the recognizance is further conditioned for his appearance before the same Justice, or in case of that being impracticable, before some other Justice, within ten days after the judgment of the Court of Appeal shall be given, to abide such judgment, unless the determination appealed against be reversed.

(4) If the appeal is brought by or under the direction of the Attorney-General for Canada or the Attorney-General for Ontario, it shall not be necessary for such Attorney-General to give any security on the appeal.

(5) The Justice shall not refuse to state a case where the application is made to him by or under the direction of the Attorney-General for Canada or the Attorney-General for Ontario.

(6) In other cases, the Justice, if of opinion that the application is merely frivolous, may refuse to state a case, and shall on request of the appellant sign and deliver to him a certificate of the refusal.

(7) If the Justice refuses to state a case as aforesaid, the appellant may apply to the Court of Appeal, or a Judge thereof sitting in Chambers, by way of motion, in accordance with the ordinary practice of the Court as to notice and otherwise, and upon an affidavit of the facts, for an order on the Justice to state the case; and the Court or Judge may make such order or discharge the motion, with or without the payment of costs, as to the Court or Judge shall seem proper; and the Justice, upon being served with such order, shall state a case accordingly, upon the appellant entering into a recognizance as is hereinbefore provided. 52 V. c. 15, s. 6.

7.—(1) The Court of Appeal shall hear and determine the question of law arising thereon, and shall thereupon reverse, affirm or amend the determination in respect of which the case has been stated, or remit the matter to the Justice, with the opinion of the Court thereon, or may make such other order in relation to the matter and as to costs as to the said Court seems proper, and all such orders shall be appealable like other orders of the said Court. Court to decide case.

(2) No Justice who states and delivers a case in pursuance of this Act shall be liable to any costs in respect or by reason of the appeal against his determination. 52 V. c. 15, s. 7.

8. The Court of Appeal shall have power to cause the case to be sent back for amendment; and thereupon the same shall be amended accordingly, and judgment shall be delivered after it shall have been amended. Amendment of case. 52 V. c. 15, s. 8.

9. After the decision of the Court of Appeal in relation to any case stated under this Act, the Justice in relation to whose determination the case has been stated, or any other Justice exercising the same jurisdiction, shall have the same authority to enforce any conviction or order which has been affirmed, amended or made by such Court of Appeal, as the Justice who originally decided the case would have had to enforce his determination if the same had not been appealed against; and no action or proceeding shall be commenced or had against the Justice for enforcing the conviction or order, by reason of any defect in the same. Enforcing conviction or order. 52 V. c. 15, s. 9.

10. No writ of *certiorari* or other writ shall be required for the removal of any conviction, order or other determination, in relation to which an appeal is taken or a case is stated under this Act, or otherwise for obtaining the judgment or determination of the Court of Appeal under this Act. Writ for removal of case not required. 52 V. c. 15, s. 10.

11. The Court of Appeal may at any time make any Rules of Court, or additional Rules of Court, for carrying into effect the jurisdiction by this Act conferred on the Court. Rules of Court. 52 V. c. 15, s. 11.

Enforcing
recognizance.

12. Where the conditions, or any of them, in the recognizance have not been complied with, the Justice who took the same, or any other Justice, shall certify upon the back of the recognizance in what respect the conditions thereof have not been observed, and shall transmit the recognizance to the Clerk of the Peace of the county or district within which the same was taken, to be proceeded upon in like manner as other recognizances duly forfeited may be enforced. 52 V. c. 15, s. 12.

Appeal under
this Act to
bar other
appeals.
Rev. Stat.
c. 90.
Rev. Stat.
c. 92.

13. Any person who appeals under the provisions of this Act against any determination of a Justice from which he is by law entitled to appeal under *The Ontario Summary Convictions Act*, or *The Act respecting the Procedure on Appeals to the Judge of a County Court from Summary Convictions*, shall be taken to have abandoned such right of appeal finally and conclusively, and to all intents and purposes. 52 V. c. 15, s. 13.

Defendant
not to be
ordered to pay
costs in cer-
tain cases.

14. The defendant shall in no event be ordered to pay any costs on any appeal brought by the Attorney-General for Canada or by the Attorney-General for Ontario under this Act. 56 V. c. 18, s. 1.

SCHEDULE A.

(Section 6.)

FEES TO BE TAKEN BY JUSTICES UNDER THIS ACT.

For drawing case and copy, where the case does not exceed 5 folios of 100 words each.....	\$2 50
Where the case exceeds 5 folios, then for every additional folio...	25
For the recognizance to be taken in pursuance of the Act.....	1 50
For every enlargement or renewal thereof.....	50
For certificate of refusal of case.....	50

52 V. c. 15, Sched. A.

CHAPTER 92.

An Act respecting the procedure on Appeals to the Judge of a County Court from Summary Convictions.

INTERPRETATION, s. 1.	JUDGE AFFIRMING OR QUASHING
PROCEDURE WHERE APPEAL LIES TO	CONVICTION, ss. 8-12.
COUNTY JUDGE, ss. 2-7 :	APPEALS TO BE ON THE MERITS NOT-
Giving of security and transmis-	WITHSTANDING DEFECTS IN FORM,
sion of papers, etc., to Clerk of	s. 13.
County Court, s. 3.	DEALING WITH MONEY DEPOSITED ON
Liberation of prisoner on security	SECURITY, s. 14.
being given, ss. 4, 5.	CONVICTIONS NOT TO BE QUASHED FOR
Summons to quash conviction, ss.	DEFECT OF FORM, ss. 15, 16.
6, 7.	POWERS OF JUDGE, s. 17.
PROCEEDINGS ON ORDER OF COUNTY	FORMS, s. 18.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows :—

1. Where the following words occur in this Act or in the Schedules thereto they shall be construed in the manner hereinafter mentioned unless a contrary intention appears :—

1. "Justice" or "Justice of the Peace," shall include a Stipendiary or Police Magistrate; Interpretation:
"Justice,"
"Justice of
the Peace,"
2. "Conviction" shall include an order made by a Justice of the Peace; and "Conviction,"
3. "Person convicted" shall include any person against whom an order is made as aforesaid. "Person convicted."

2. Where, by any statute of Ontario, an appeal is given to the Judge of the County Court without a jury, from a summary conviction had or made before a Justice of the Peace, and no special provision is made therefor, the appeal shall be to the Judge of the County Court of the county in which the conviction is made, sitting in Chambers, and the proceedings thereon shall be as hereinafter provided. Appeals without a jury to be to the Judge of the County wherein conviction made.
Procedure. R. S. O. 1887, c. 75, s. 2.

[For Appeals to General Sessions, see Cap. 90, sec. 7.]

3. In any of the following cases, namely :

- (a) If the appeal is against a conviction whereby only a money penalty is imposed, then, in case the person convicted deposits with the convicting Justice the amount of the penalty Appeal from conviction imposing

money penalty, and security by appellant.

and the costs and a further sum of \$10, or with two sufficient sureties enters into a recognizance (Form 1) before a Justice of the Peace, in a sum double the amount of the penalty and the costs, conditioned duly to prosecute the appeal, and to abide by and perform the order of the Judge thereupon, and to pay such costs as he may order ;

Appeal where imprisonment imposed, and security to be given by appellant.

(b) If the appeal is against a conviction whereby imprisonment is imposed, then, in case the person convicted, with two sufficient sureties, enters into a recognizance (Form 2), before a Justice of the Peace in a sum not less than \$100 nor more than \$200, as the convicting Justice directs, and in double the amount of the penalty and costs which the person convicted has been ordered to pay, conditioned as aforesaid, and also containing the further condition that the person convicted will surrender himself if the conviction is affirmed ;

Appeal when in custody and security given by appellant.

(c) If the person convicted is in custody for non-payment of a fine and costs, or in consequence of imprisonment being imposed as aforesaid, and fails to make the required deposit, or to enter into a recognizance, as hereinbefore provided, but deposits with the said Justice the sum of \$10 ;

In above cases the Justice to transmit proceedings, etc.

the said Justice shall, at the request of the person convicted, made within five days after the date of the conviction, forthwith transmit to the Clerk of the County Court, by registered letter post-paid, all the proceedings and evidence ; which proceedings and evidence, with a duplicate of any order made by the Judge as hereinafter provided, shall, immediately after the matter has been finally disposed of by the Judge, be transmitted by the Clerk of the County Court, in manner aforesaid, to the Clerk of the Peace, to be by him kept with the records of convictions. R. S. O. 1887, c. 75, s. 3.

In the first and second of above cases, Justice to stay proceedings and liberate prisoner.

4. In any case coming within either of the classes described in clauses (a) and (b) of the next preceding section the convicting Justice, upon the recognizance being given or the deposit made, as the case may require, shall stay all proceedings upon the conviction, and if the person convicted is in custody the Justice shall issue his warrant (Form 3) to liberate such person. R. S. O. 1887, c. 75, s. 4.

How appellant dealt with in the third case.

5. In any case coming within the class described in clause (c) of section 3 the person appealing shall remain in custody while the appeal is pending, unless he is in custody for non-payment of a fine or costs, in which case the convicting Justice shall order his liberation upon his depositing (in addition to the said sum of \$10) the amount for the non-payment of which he is in custody. R. S. O. 1887, c. 75, s. 5.

Summons to shew cause why conviction should not be quashed.

6.—(1) Within ten days after the date of the conviction, but not afterwards, unless it is made to appear to the Judge that the delay arose wholly from the fault of the convicting

Justice, the Judge of the County Court, if he is of opinion from the evidence that the conviction may be erroneous, may grant a summons calling upon the County Crown Attorney and the prosecutor to shew cause why the conviction should not be quashed.

(2) Such summons shall not be granted in any case after the expiration of one month from the date of the conviction. R. S. O. 1887, c. 75, s. 6.

7. Upon the return of the summons the Judge upon hearing the parties may either affirm or quash the conviction, or, if he thinks fit, may hear the evidence of such other witnesses as may be produced before him, or the further evidence of any witness already examined, and may then make an order affirming, or amending and affirming, or quashing the conviction as he may think just, and may order the payment of costs and may fix the amount thereof. R. S. O. 1887, c. 75, s. 7.

Proceedings on return of summons.

8. Upon the production of the Judge's order affirming, or amending and affirming the conviction, the Justice who has made the conviction shall, if the case is one in which a recognizance has not been given, issue his warrant for payment of such further sum for costs as the sum deposited with him is insufficient to pay; if the conviction is quashed, the Judge shall order a return of the money deposited, and shall have authority to order payment of such sum for costs as he may tax and allow, and unless the sum is paid by the complainant, the Justice shall issue his warrant to levy the costs. R. S. O. 1887, c. 75, s. 8.

Proceedings after order affirming or quashing conviction.

9.—(1) If by the conviction it is adjudged that the person convicted shall be imprisoned, and the conviction is affirmed, or amended and affirmed, or the person convicted fails duly to prosecute the appeal, the Judge shall issue his warrant (Form 4) for the commitment to the proper gaol or other place of imprisonment of the person convicted, and unless such person, within one week thereafter, surrenders himself into the custody of the constable or other officer entrusted with the execution of the warrant, the condition of the recognizance shall be deemed broken, and the recognizance forfeited; and upon proof of default being made by affidavit of the officer or otherwise, the Judge may certify (Form 5) the default on the back of the recognizance, and shall thereupon transmit the recognizance to the Clerk of the Peace.

Where imprisonment imposed and conviction affirmed, or appeal not prosecuted.

(2) The recognizance shall be thereafter proceeded upon at the General Sessions of the Peace in the same manner as a recognizance taken upon an appeal to the Sessions from a summary conviction may be proceeded upon; and the certificate shall be deemed sufficient *prima facie* evidence of the default of the defendant; but such proceedings shall not relieve the person convicted from undergoing the term of imprisonment

to which he was sentenced; and the warrant of the Judge issued in that behalf, or any new warrant issued by him, may be executed in any part of Ontario in the same manner and subject to the like conditions as a warrant of a Justice of the Peace for the apprehension of an offender. R. S. O. 1887, c. 75, s. 9.

Where money penalty imposed and default on recognizance.

10. If by the conviction only a money penalty is imposed, the Judge, upon being satisfied by affidavit or otherwise that default has been made upon a recognizance given on an appeal in such a case, shall certify in like manner as is provided in the preceding section, and similar proceedings shall thereupon be had in respect of the recognizance. R. S. O. 1887, c. 75, s. 10.

Service of portion of term of imprisonment before order made on appeal.

11. In case it is proved to the satisfaction of the Judge that the person convicted had previously served a portion of his term, the Judge shall only issue his warrant for the commitment of the defendant for the residue of the term of imprisonment to which he was sentenced. The Judge may, if he thinks fit, transmit his warrant to the convicting Justice in order that he may place the same in the hands of a constable for execution. R. S. O. 1887, c. 75, s. 11.

Transmission of Judge's warrant.

Warrants, direction and execution of.

12. A warrant issued under this Act may be directed in the same manner, and executed by the like officers, as a warrant of commitment upon a summary conviction made under a statute of the Parliament of Canada. R. S. O. 1887, c. 75, s. 12.

Hearing on appeal to be on the merits.

13. In all cases of appeal to a County Court Judge from a summary conviction had before a Justice, the Judge to whom the appeal is made shall hear and determine the charge or complaint on which the conviction has been had, upon the merits, notwithstanding any defect of form or otherwise in the conviction; and if the person charged or complained against is found guilty, the conviction shall be affirmed, and the Judge shall amend the same if necessary. R. S. O. 1887, c. 75, s. 13.

Power to amend.

Dealing with money deposited.

14. The Justice shall retain any moneys deposited with him as aforesaid for the period of six months, unless judgment is sooner given; and upon the judgment in appeal being given, or upon the expiration of six months from the day of the date of the conviction, the Justice shall pay over such moneys to the person or persons entitled thereto, in accordance with the judgment; and if the judgment in appeal is not delivered within six months from the day of the date of the conviction, the conviction shall stand, but the respondent shall not be entitled to any costs of the appeal; and in case imprisonment was adjudged by the conviction, the convicting Justice shall, or any other Justice may, issue his warrant for the commitment of the person convicted for any portion of the term which he has not served, and no further proceedings shall be taken on the appeal. R. S. O. 1887, c. 75, s. 14.

The case of judgment not given within six months from conviction.

Judgment of imprisonment.

15. No conviction affirmed or amended and affirmed on appeal by the County Court Judge shall be quashed for want of form, or be removed by *certiorari* into the High Court; and no warrant or commitment shall be held void by reason of any defect therein, provided it is therein alleged that the party has been convicted, and there is a good and valid conviction to sustain the same. R. S. O. 1887, c. 75, s. 15.

No conviction affirmed or warrant to be invalid for want of form, or defect in warrant or commitment.

16. In all cases where it appears by the conviction that the person convicted has appeared and pleaded, and the merits have been tried, and that such person has not (in manner hereinbefore provided) appealed against the conviction where an appeal is allowed, or if appealed against, that the conviction has been affirmed, or amended and affirmed, the conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatever, but the construction shall be such a fair and liberal construction as is agreeable to the justice of the case. R. S. O. 1887, c. 75, s. 16.

Conviction on the merits not appealed against, not to be invalid for want of form.

17. In all process and proceedings before the Judge of the County Court under this Act, the Judge shall, with reference to the matters herein contained, have all the powers which belong to or might be exercised by him in the County Court; and all necessary process may be issued from the office of the Clerk of the County Court. R. S. O. 1887, c. 75, s. 17.

Powers of County Judge.

Issuing of process.

18. The several forms in the Schedule to this Act contained, varied to suit the case, or forms to the like effect, shall be deemed good, valid and sufficient in law. R. S. O. 1887, c. 75, s. 18.

Forms.

SCHEDULE.

FORM 1.

(Section 3.)

RECOGNIZANCE TO TRY THE APPEAL; TO BE TAKEN ONLY WHERE A MONEY PENALTY IS IMPOSED.

Province of Ontario,)
County of)

Be it remembered, that on , A. B., of (Labourer), and L. M. of (Grocer), and O. P., of (Yeoman), personally came before me (or us) undersigned one (or two) of Her Majesty's Justices of the Peace in and for the said County of (or United Counties, as the case may be), and severally acknowledged themselves to owe to our Sovereign Lady the Queen the several sums following, that is to say, the said A.B. the sum of , and the said L. M. and O. P. the sum of each, of good and lawful money of Canada, to be made and levied of their several goods and chattels, lands and tenements re-

spectively, to the use of our said Lady the Queen, Her Heirs and Successors, if he the said *A. B.* shall fail in the condition hereunder written (*or* endorsed).

Taken and acknowledged the day and year first above mentioned
at , before me (*or* us).

J. S.

Whereas the said *A. B.* was on the day of , A.D. , convicted before *C. D.* (and *E. F.*) one (*or* two) of Her Majesty's Justices of the Peace for the said County (*or* United Counties), for that (*stating the substance of the conviction*):

And whereas the said *A. B.* has undertaken to appeal against the said conviction to the Judge of the County Court of the County of (*or* United Counties of):

Now the condition of the above (*or* within) recognizance is such that if the said *A. B.* shall, within one month from the date of the said conviction, obtain from the said Judge a summons calling upon the County Crown Attorney and the prosecutor to shew cause why the said conviction should not be quashed, and shall duly prosecute the said appeal, and shall abide by and duly perform the order of the Judge to be made upon the trial of such appeal, and shall pay such costs as the said Judge shall order, then the said recognizance to be void, and otherwise to remain in full force and virtue.

R. S. O. 1887, c. 75, Sched. Form 1.

FORM 2.

(Section 3.)

RECOGNIZANCE TO TRY THE APPEAL ; TO BE TAKEN WHERE IMPRISONMENT
IS IMPOSED.

Province of Ontario, }
County of }

Be it remembered, that (*proceed as in Form 1 to the end, and add the following additional condition*):—

And further, that if the said *A. B.*, in case the conviction is affirmed, or amended and affirmed, shall surrender himself into the custody of the constable or other officer entrusted with the execution of the warrant, within one week after the Judge shall issue his warrant for the commitment of the said *A. B.*, then the said recognizance to be void, and otherwise to remain in full force and virtue.

R. S. O. 1887, c. 75, Sched. Form 2.

FORM 3.

(Section 4.)

WARRANT OF DELIVERANCE WHERE DEFENDANT IS IN CUSTODY, AND
ENTITLED TO BE LIBERATED.

Province of Ontario, }
County of }

To the Keeper of the Common Gaol of the County of
(or United Counties of, or to E. F., the constable,
having in his custody A. B., hereinafter named, or as the case may
require).

Whereas A. B. has before me (or us) one (or two) of Her Majesty's Jus-
tices of the Peace in and for the said County (or United Counties) of
entered into his own recognizance and found sufficient sureties to prose-
cute before the Judge of the County Court of the County of (or United
Counties) , an appeal from a conviction had before me
(or us) for that (stating the substance of the conviction), for which the said
A. B. was committed to your custody :

These are therefore to command you, in Her Majesty's name, that if
the said A. B. do remain in your custody for the said cause and for no
other, you shall forthwith suffer him to go at large.

Given under my (or our) hand and seal (or hands and seals) this
day of , in the year of our Lord , at
, in the County (or United Counties) aforesaid.

J. S. { L. S. }

J. N. { L. S. }

R. S. O. 1887, c. 75, Sched. Form 3.

FORM 4.

(Section 9.)

WARRANT OF THE JUDGE OF THE COUNTY COURT WHERE IMPRISONMENT
ADJUDGED AND CONVICTION AFFIRMED.

Province of Ontario, }
County of }

To all or any of the Constables and other Peace Officers in the said County,
and to the Keeper of the Common Gaol of the said County.

Whereas A. B., late of (Labourer), was on or about the
day of convicted before J. S., one of Her
Majesty's Justices of the Peace in and for the said County, for that (stat-

ing the offence), and it was thereby adjudged (*stating the judgment*): And whereas the said *A. B.* has appealed against the said conviction to me, *H. K.*, the Judge of the County Court of the said County of _____ : and whereas, after hearing the said appeal, I, the said *H. K.*, have affirmed the said conviction (*or have amended the said conviction as follows : stating the amendment made*, and have affirmed the said conviction as so amended) :

These are therefore to command you, the said Constables or Peace Officers, or any of you, to take the said *A. B.*, and him safely to convey to the Common Gaol at _____, and there to deliver him to the Keeper thereof, together with this warrant ; And I do hereby command you, the said Keeper of the said Common Gaol, to receive the said *A. B.* into your custody in the said Common Gaol, there to imprison him (and to keep him at hard labour) for the space of _____, being the term (*or being the portion yet unserved of the term*) mentioned in the said conviction ; and for your so doing this shall be your sufficient warrant.

Given under my hand and seal, this _____ day of _____, in the year of our Lord _____, at _____, in the County of _____

H. K. { L.S. }

R. S. O. 1887, c. 75, Sched. Form 4.

FORM 5.

(Section 9.)

CERTIFICATE OF DEFAULT TO BE ENDORSED ON THE RECOGNIZANCE.

I hereby certify that the within-named *A. B.* has not surrendered himself (*stating according to the fact the default on account of which the recognizance is forfeited*) in accordance with the condition of the within recognizance, but therein has made default, by reason whereof the said recognizance is forfeited.

H. K.

R. S. O. 1887, c. 75, Sched. Form 5.

CHAPTER 93.

An Act respecting Returns of Convictions and Fines
by Justices of the Peace.

RETURNS OF CONVICTIONS :

When to be made, s. 1.

Form, s. 1.

What to include, s. 2.

Penalty for neglect, s. 3.

LIMITATION OF ACTIONS, s. 4.

PUBLICATION OF RETURNS BY CLERKS
OF PEACE, s. 5.

RECORDING RETURNS, s. 6.

COPY TO BE SENT TO INSPECTOR OF
LEGAL OFFICES, s. 7.

RETURNS TO GENERAL SESSIONS, s. 8.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. Every Justice of the Peace before whom any trial or hearing is had, under any law giving jurisdiction in the premises, and who convicts and imposes any fine, forfeiture, penalty, or damages, shall make a return thereof and of the receipt and application by him of the money received from the person convicted, in writing under the hand of such Justice, quarterly, on or before the second Tuesday in each of the months of March, June, September and December in each year for the three months ending on the last day of the month of February, May, August or November next preceding such second Tuesday, to the Clerk of the Peace (and in the case of convictions before two or more Justices, such Justices, being present and joining therein, shall make an immediate return thereof), in the form in the Schedule hereto. R. S. O. 1887, c. 76, s. 1, part; 60 V. c. 3, s. 3.

Return of fines and penalties imposed; when and to whom to be made.

[For returns by Police and Stipendiary Magistrates, see Chap. 94.]

2. Every such return shall include all convictions and other matters mentioned in the preceding section, not included in some previous return, and also all cases wherein a fine or any part thereof has been paid since the last previous return; and in the column for observations in every such case, shall be written the words "Paid on case formerly returned;" and the returns shall be filed by the Clerk of the Peace among the records of his office. R. S. O. 1887, c. 76, s. 2.

What cases any such return shall include.

3. In case a Justice before whom any such conviction takes place, or who receives such moneys, neglects or refuses to make such return thereof, or in case a Justice wilfully makes a

Penalty on Justice of the Peace neglecting to make returns, etc.

false, partial or incorrect return, the Justice so neglecting, or refusing, or wilfully making a false, partial or incorrect return, shall forfeit and pay the sum of \$80, together with full costs of suit, to be recovered by any person who sues for the same in any Court of Record in the Province, one moiety whereof shall be paid to the party suing, and the other moiety into the hands of the Treasurer of the Province, to and for the public uses of the Province. R. S. O. 1887, c. 76, s. 3.

Limitation of actions for penalties.

4. All prosecutions for penalties arising under the provisions of the next preceding section shall be commenced within six months next after the cause of action accrues, and the same shall be tried in the County or place wherein the penalties have been incurred; and if a verdict or judgment passes for the defendant, or the plaintiff becomes nonsuited or discontinues the action after issue joined, or if upon demurrer, or otherwise, judgment is given against the plaintiff, the defendant shall recover his full costs of suit as between solicitor and client, and shall have the like remedy for the same as a defendant has by law in other cases. R. S. O. 1887, c. 76, s. 4.

Clerk of the Peace, etc., to publish and post up returns.

5. The Clerk of the Peace to whom such returns are made shall, within two weeks after the times hereby limited for the making of the returns, cause the same to be published in one public newspaper in the county, or district, or if there is no such newspaper, then in a newspaper of an adjoining county, or district, and shall also within the said period post up in the Court House, and also in a conspicuous place in the office of the Clerk of the Peace, for public inspection, a schedule of the returns so made by the Justices; and the same shall continue to be so posted and exhibited until the end of the next ensuing General Sessions of the Peace; and for every schedule so made, published and exhibited by the Clerk of the Peace, he shall be allowed in his accounts with the county the fee of \$4, besides the expense of publication, all of which shall be paid by the Treasurer of the county. R. S. O. 1887, c. 76, s. 5.

Entry of returns by Clerks of the Peace.

6. All returns so received by the Clerks of the Peace shall be entered of record by them quarterly, in the same manner as formerly recorded at Quarter Sessions; and the duties, liabilities, fees and emoluments of the Clerks of the Peace in respect thereof shall continue the same as if the returns had been made to the Court of General Sessions, until otherwise varied by competent authority. R. S. O. 1887, c. 76, s. 6.

Copy of returns to be sent to inspector of legal offices.

7. The Clerk of the Peace of every county, within twenty days after the end of each General Sessions of the Peace, shall transmit to the Inspector of Legal offices, at Toronto, a true copy of all returns made within his county, and also a return of all cases brought before, or tried at, the said General Sessions of the Peace, or at the County Judge's Criminal Court

up to the date of such return, such last mentioned return to be in similar form to the return set out in the Schedule hereto. R. S. O. 1887, c. 76, s. 7.

8. Nothing herein contained shall exonerate Justices of the Peace from duly returning to the General Sessions of the Peace of their respective counties, any convictions, or records of convictions, which are by law required to be so returned.

R. S. O. 1887, c. 76, s. 8.

This Act not to dispense with returns of convictions.

SCHEDULE.

RETURN of Convictions made by me (or us, as the case may be) from the
day of _____, 18____, to the _____ day of _____, 18____.

Name of the Prosecutor.	Name of the Defendant.	Nature of the Charge.	Date of Conviction.	Name of Convicting Justice.	Amount of penalty, fine or damages.	Time when to be paid to said Justice.	Time when paid.	To whom paid over by said Justice, and when.

If not paid, why not, and general observations, if any.

A. B., Convicting Justice,
or

A.B. and C.D., Convicting Justices (as the case may be).

R. S. O. 1887, c. 76, s. 1, part.

CHAPTER 94.

An Act respecting Returns of Convictions by Stipendiary and Police Magistrates.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Record of convictions.

Rev. Stat. c. 93.

Rev. Stat. c. 90.

Cost of book in which record kept.

When entries to be made.

Record to be open to inspection.

Penalty.

1. Every Police Magistrate, except as hereinafter mentioned, and every Stipendiary Magistrate shall keep, or cause to be kept, at the place where he most usually holds his Court, a book ruled in the same manner as the form of return of convictions given in *The Act respecting Returns of Convictions and Fines by Justices of the Peace*, and shall, from time to time enter, or cause to be entered in the said book, in respect of convictions had before him whether the conviction is under a law within Dominion or Provincial authority, the information required to be given in the returns prescribed by the said Act, and also a statement of the costs as required by section 4 of *The Ontario Summary Convictions Act*. R. S. O. 1887, c. 77, s. 1; 53 V. c. 24, s. 2, part.

2. In the case of a Police Magistrate the cost of the book shall be repaid to him by the municipality of which he is a Police Magistrate; or if he is a Police Magistrate of territory composed of two or more municipalities, the cost shall be repaid by the county, and in case of a Stipendiary Magistrate the cost of the book shall be repaid out of the Consolidated Revenue Fund of the Province. R. S. O. 1887, c. 77, s. 2.

3. The required entries shall be made forthwith upon the happening of the event in respect of which information is to be given; and in case the fine, forfeiture, penalty, or damages imposed, is or are not collected within three months after the imposition thereof, the cause of the same not having been collected shall be written in the column for observations. R. S. O. 1887, c. 77, s. 3.

4. Any person shall be at liberty to inspect the book under this Act at any reasonable time upon the payment of a fee of ten cents, to be paid to the clerk, or to the Magistrate, if there is no clerk; but any person upon whom any fine, forfeiture, penalty, or damages has or have been imposed, or any person in his behalf, may at any reasonable time gratuitously inspect the entry in respect of his conviction; and the book kept by or for a Police Magistrate shall, at all reasonable times, be open to the gratuitous inspection of any of the officers of the municipality. R. S. O. 1887, c. 77, s. 4.

5. In case a Police or Stipendiary Magistrate before whom a conviction takes place, or who receives any such moneys,

neglects to make, or cause to be made, the proper entry in respect thereto for more than one month after the conviction takes place, or after the receipt of money paid him in respect of the imposition of a fine, forfeiture, penalty or damages, such Magistrate shall forfeit and pay the sum of \$80, together with full costs of suit, to be recovered by any person who sues for the same in any Court of Record in the Province, one moiety of which sum shall be paid to the party suing and the other moiety to the Treasurer of the Province for the public use of the Province; and the provisions of section 4 of *The Act respecting Returns of Convictions and Fines by Justices of the Peace* shall apply to any action brought under this section for the recovery of a penalty. R. S. O. 1887, c. 77, s. 5.

Rev. Stat.
c. 93.

6. The provisions of section 1 of the said Act shall not be held to apply to a Police or Stipendiary Magistrate, nor shall it be necessary that convictions by Police or Stipendiary Magistrates should be published in any newspaper. R. S. O. 1887, c. 77, s. 6.

Rev. Stat. c. 93
not to apply
to a Police or
Stipendiary
Magistrate.

7. The council of any municipality may at any time cause copies of such entries to be made, and may cause the same to be published in any newspaper, or otherwise, as may be deemed fitting. R. S. O. 1887, c. 77, s. 7.

Publication of
entries.

8. Except as hereinafter mentioned, every Police Magistrate shall forward to the Clerk of the Peace of the county, for which, or within which, he is Police Magistrate, and to the Inspector of Legal Offices at Toronto, on or before the second Tuesday in each of the months of March, June, September and December, of every year, a copy certified by him to be a true copy of the entries in his book aforesaid with reference to convictions had before him, or fines, forfeitures, penalties or damages, imposed by him, during the three months ending on the last day of the month of February, May, August, or November, next preceding such second Tuesday; and he shall also append to the copy a statement of any transactions which have taken place during the time covered by the said period with reference to any conviction made, or fine, forfeiture, penalty or damages, imposed by him during any previous period. R. S. O. 1887, c. 77, s. 8.

Return of
convictions.

9. In the case of a city or town which has a salaried clerk of the Police Court other than the clerk of the council of the city or town, the duties directed by this Act to be performed by the Police Magistrate shall under the like penalties and within the like periods be performed by the clerk. The Police Magistrate shall supervise the performance of the said duties by the clerk. R. S. O. 1887, c. 77, s. 9.

Duties of clerk
of police court.

10. This Act shall not apply to the City of Toronto. R. S. O. 1887, c. 77, s. 10.

Act not to
apply to
Toronto.

CHAPTER 95.

An Act respecting the Fees of Justices of the Peace

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Fees receivable for certain services.

1. The fees mentioned in the Schedule to this Act, and no others, shall be and constitute the fees to be taken by Justices of the Peace, or by their clerks, for the duties and services therein mentioned; and shall be the costs to be charged in summary proceedings or convictions before the Justice, where no other fees are expressly prescribed. R. S. O. 1887, c. 78, s. 1.

Fees not allowed in cases above misdemeanour.

2. This Act shall not authorize any claim being made by the Justices aforesaid, for fees of any description connected with cases above the degree of misdemeanour. R. S. O. 1887, c. 78, s. 2.

Penalty for taking unauthorized fees.

3. Every Justice wilfully receiving a larger amount of fees than by law are authorized to be received, shall forfeit and pay the sum of \$80, together with full costs of suit, to be recovered by any person who sues for the same in any Court of Record in the Province, one moiety whereof shall be paid to the party suing, and the other moiety to the Treasurer of the Province, to and for the uses of the Province. R. S. O. 1887, c. 78, s. 3.

Fees to witnesses in certain cases.

4. In cases of conviction where persons are subpoenaed to give evidence before Justices of the Peace in cases of assault, trespass or misdemeanour, the witness shall be entitled, in the discretion of the Justice, to receive fifty cents for every day's attendance, where the distance travelled in coming to and returning from such adjudication does not exceed ten miles, and five cents for each mile above ten. R. S. O. 1887, c. 78, s. 4.

SCHEDULE

(Section 1.)

TABLE OF FEES TO BE TAKEN BY JUSTICES OF THE PEACE, OR THEIR CLERKS.

1. For an Information and Warrant for apprehension, or for an Information and Summons for assault, trespass, or other misdemeanour.....	\$0 50
2. For each copy of Summons to be served on defendant or defendants.....	10
3. For every Subpoena, (<i>only one Subpoena on each side to be charged for in each case, which may contain any number of names.</i>)..... (<i>If the justice of the case requires it, additional Subpcenas shall be issued without charge.</i>)	10
4. For every Recognizance (<i>only one to be charged in each case</i>)	25
5. For Information and Warrant for surety of the peace for good behaviour, (<i>to be paid by complainant</i>).....	50
6. For Warrant of Commitment for default of surety to keep the peace or for good behaviour (<i>to be paid by Complainant</i>)	50
7. For hearing and determining the case.	50
8. Where one Justice alone cannot lawfully hear and determine the case, an additional fee for hearing and determining to be allowed to the Associate Justice	50
In case more Justices hear the case, the Justice by whom the information was taken, if he hears the case, shall be entitled to one fee of fifty cents for hearing and determining, and the Justice who sat at his request shall be entitled as Associate to the said additional fee, when one is chargeable ; if a case occurs which is not covered by this provision, the justices shall be entitled to the fees according to their seniority as justices.	
9. For Warrant to levy penalty	25
10. For making up every Record of Conviction where the same is ordered to be returned to the Sessions, or on <i>certiorari</i>	1 00
11. But in all cases which admit of a summary proceeding before a single Justice of the Peace and wherein no higher penalty than \$20 can be imposed, there only shall be charged for the conviction, not more than	50
And for the warrant to levy the penalty	25
12. For copy of any other paper connected with any trial, and the minutes of the same if demanded—per folio of one hundred words	10
13. For every Bill of Costs, (<i>when demanded to be made out in detail</i>).	10

[Items 12 and 13 to be only chargeable when there has been a conviction.]

R. S. O. 1887, c. 78, Sched.

2 Other Officers of Justice

CHAPTER 96.

An Act respecting County Crown Attorneys.

SHORT TITLE, s. 1.	To attend Crown officer at Assizes
INTERPRETATION, s. 2.	and in his absence conduct prosecutions, s. 9 (4).
APPOINTMENT OF COUNTY CROWN ATTORNEYS, ss. 3, 4.	To conduct summary proceedings relating to the revenue, s. 9 (5).
SECURITY, s. 5.	To advise Justices, s. 9 (6).
OATH, s. 6.	To perform duties assigned to him by Order in Council, s. 9 (7).
NOT TO ACT FOR PRISONERS, s. 7.	To have custody of informations, etc., s. 10.
DUTIES :—	FOR CITY OF TORONTO AND COUNTY OF YORK, ss. 11-13.
Generally, s. 8.	POWER OF LIEUT.-GOVERNOR IN COUNCIL TO REGULATE DUTIES, s. 14.
To examine informations, s. 9 (1).	APPOINTMENT OF A SUBSTITUTE, s. 15.
To secure attendance of witnesses, s. 9 (1).	FEES, ss. 16-18.
To institute and conduct prosecutions at Sessions and County Judge's Criminal Courts, s. 9 (2).	
To watch private prosecutions and intervene if necessary, s. 9 (3).	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The County Crown Attorneys Act.*" R. S. O. 1887, c. 79, s. 1.

Interpretation.

2. Unless there is something in the context repugnant to such construction, the word "Assizes," when used in this Act, shall mean the sittings of the High Court for the trial of criminal causes, or the sittings of any Court of Assize or of Oyer and Terminer and General Gaol Delivery. R. S. O. 1887, c. 79, s. 2.

Lieutenant-Governor to appoint.

3. The Lieutenant-Governor shall from time to time appoint two Crown Attorneys for the County of York, one to be designated the Crown Attorney for the County of York, and the other the Crown Attorney for the City of Toronto, and shall also from time to time appoint one Crown Attorney for each of the other counties in the Province. R. S. O. 1887, c. 79, s. 3; 56 V. c. 19, s. 1.

4. No person shall be appointed a County Crown Attorney, ^{Who qualified or shall act in that capacity, who is not a barrister-at-law of at least three years' standing at the Bar of Ontario, and a resident in the county for which he is appointed.} R. S. O. 1887, c. 79, s. 4.

5. Every County Crown Attorney shall give security for the due performance of the duties of his office, and for the due payment of all moneys received by him by virtue thereof, in such sum, and with so many sureties, and in such manner and form as the Lieutenant-Governor directs. ^{County Crown Attorneys to give security.} R. S. O. 1887, c. 79, s. 5.

6. No person appointed a County Crown Attorney shall be qualified to act until he has taken, before some County Judge, the following oath, that is to say : ^{Oath of office.}

"I do swear that I will truly and faithfully, according to the best of my skill and ability, execute the several duties, powers and trusts of County Crown Attorney for the County of _____, without favour or affection to any party : So help me God."

R. S. O. 1887, c. 79, s. 6.

7. No County Crown Attorney shall by himself or his partner in business, act or be directly or indirectly concerned as counsel or solicitor for any prisoner or party, in respect to any charge against such prisoner of any offence punishable under the criminal law in force in this Province. ^{Not to act as counsel for prisoners.} R. S. O. 1887, c. 79, s. 7.

8. The County Crown Attorney for each county shall aid in the local administration of justice, and perform the duties by this Act or any other Act, either of Canada or of this Province, assigned to County Crown Attorneys. ^{Duties generally.} R. S. O. 1887, c. 79, s. 8.

9. Except as specially provided with respect to the Crown Attorney for the County of York and the Crown Attorney for the City of Toronto, every County Crown Attorney— ^{Special duties.}

1. Shall receive and examine all informations, examinations, depositions, recognizances, inquisitions and papers connected with criminal charges which the Justices of the Peace and Coroners of the county are required to transmit to him, and where necessary, he shall cause such charges to be further investigated, and additional evidence to be collected, and shall sue out process to compel the attendance of witnesses and the production of papers, so that prosecutions at the Assizes, General Sessions of the Peace and County Judge's Criminal Court, may not be unnecessarily delayed or fail through want of proof ; ^{To receive and examine informations, etc.}

2. He shall institute and conduct on the part of the Crown prosecutions for crimes and misdemeanours at the General Sessions, etc. ^{To secure attendance of witnesses.}

sions of the Peace, and the County Judge's Criminal Court for the county for which he is appointed, in the same manner as the Law Officers of the Crown institute and conduct similar prosecutions at the Assizes, and with like rights and privileges, except as to the right of entering a *nolle prosequi*, and generally he shall attend to all criminal business at the General Sessions of the Peace, and the County Judge's Criminal Court ;

To watch certain cases brought by private prosecutors.

3. He shall watch over the conduct at the General Sessions of the Peace, of cases wherein it is questionable if the conduct complained of be punishable by law, or where the particular act or omission presents more of the features of a private injury than of a public offence ; and without unnecessarily interfering with private individuals who wish in such cases to prosecute, may assume wholly the conduct of the case where justice towards the accused seems to demand his interposition ;

To deliver papers connected with criminal business at Assizes to Crown Officer.

4. He shall deliver to the Crown Officer or Counsel appointed by the Attorney-General, all papers connected with the criminal business at the Assizes on or before the opening of the Court ; he shall be present at the Court, and, if required, shall assist the Crown Officer or Counsel with the criminal business, and in the absence of the Law Officers of the Crown and of such Counsel, he shall represent the Crown, and take the charge and conduct of the criminal business to be done at the Assizes for his County ;

When to take charge of business.

To institute and conduct summary proceedings before Justices of the Peace in certain cases.

5. He shall, if required by the general regulations touching his office made in pursuance of the provisions hereinafter contained, institute and conduct proceedings before Justices of the Peace under any Act or law conferring summary powers to convict, for offences in relation to the public revenue, the public property, the public domain, the public peace, the public health, and any other matter made punishable on summary conviction before Justices of the Peace ; and the County Crown Attorney is hereby empowered to institute such proceedings, on a complaint in writing, or as public prosecutor in cases wherein the public interests require the exercise of such office ;

To advise Justices of the Peace at their request.

6. He shall advise a Justice of the Peace in respect to criminal offences brought before such Justice for preliminary investigation or for adjudication, if such Justice requests him to do so by writing containing a statement of the particular case.

To perform duties to be assigned by regulations in Council.

7. He shall perform such other duties and services as the Lieutenant-Governor, by regulations in Council, from time to time prescribes and directs for carrying out the provisions of any Act imposing duties upon County Crown Attorneys, and also touching the office of County Crown Attorney and the prosecution of criminal offenders. R. S. O. 1887, c. 79, s. 9.

To supply forms for use of Justices of the Peace.

8. He shall procure the necessary forms for the use of Justices of the Peace, and shall supply the same from time to time

to acting Justices of the Peace as needed, in such manner as he deems expedient; and the expense of such forms shall be paid out of the county funds as part of the expenses connected with the administration of justice, except where such forms are supplied by the county council through the clerk of the county or the Clerk of the Peace. 54 V. c. 17, ss. 1, 2.

10. In every case where a person is committed for trial, or bailed to answer to a criminal charge, the Justice of the Peace so committing or bailing shall deliver or cause to be delivered without delay to the County Crown Attorney the informations, depositions, examinations, recognizances and papers connected with the charge; and subject to the provisions of section 6 of chapter 90 of these Revised Statutes, the County Crown Attorney shall be deemed the "Proper officer of the Court by which the accused is to be tried," within the meaning of *The Criminal Code, 1892*, and in every case of inquisition found before a Coroner, the inquisition and every recognizance taken before him, with the written information (if any), and the depositions and statements (if any) of the accused, shall be forthwith delivered to the Crown Attorney of the County in which the inquisition has been found; and in every case in which an information has been laid or complaint made before a Justice of the Peace, whether proceedings have been taken therein or not, the Justice shall deliver to the County Crown Attorney all papers connected therewith, on being by him required so to do. R. S. O. 1887, c. 79, s. 10. [See also as to Coroners, Cap. 97, sec. 18.]

Justices to deliver informations, etc., to County Crown Attorney, 55-56 V. (Dom.) c. 29

11. The Crown Attorney for the City of Toronto shall be the Crown Attorney whose duty it shall be to institute and conduct on the part of the Crown prosecutions before the Police Magistrate for the City of Toronto, and to institute and conduct all other proceedings in the Police Court of the said City before the Police Magistrate or any Justice or Justices of the Peace acting for such Police Magistrate under any Act or law conferring summary powers to convict for offences in relation to the public revenue, the public property, the public domain, the public peace, the public health and other matters made punishable on summary conviction before such Police Magistrate or Justice or Justices of the Peace; and the said Crown Attorney is hereby empowered to institute such proceedings upon a complaint in writing, or as public prosecutor in cases where the public interest requires the exercise of such office. 56 V. c. 19, s. 2.

Duties of Crown Attorney for the City of Toronto.

12.—(1) The Crown Attorney for the County of York shall, with respect to all Police and Magistrates' Courts within the County of York, except those mentioned in the preceding section, perform like duties and have like powers to those which are conferred by the said preceding section upon the Crown Attorney for the City of Toronto.

Duties of Crown Attorney for County of York.

(2) Except as otherwise by this Act expressly provided, the said Crown Attorney for the County of York shall also

perform all the duties required to be performed by County Crown Attorneys under and in pursuance of this Act or any regulations made thereunder, 56 V. c. 19, s. 3.

Expense of proceedings not to be increased.

13. The appointment of two Crown Attorneys for the County of York is not to increase expense to the public or to the parties to any proceeding. 56 V. c. 19, s. 4.

Lieutenant-Governor in Council may make regulations as to duties of County Crown Attorney.

14. The Lieutenant-Governor in Council may from time to time make such general regulations as to him seem expedient, for carrying out the provisions of any Act imposing duties upon County Crown Attorneys, and also touching the office of County Crown Attorney, and for the prosecution of offenders against the criminal laws of this Province, and may from time to time alter such regulations. R. S. O. 1887, c. 79, s. 11.

Case of unavoidable absence or illness of County Crown Attorney provided for.

15. In case of the illness or unavoidable absence of the County Crown Attorney, the Judge of the County Court of the County may appoint some barrister-at-law to act for the County Crown Attorney during his illness or absence, and notice of the appointment and of the cause thereof shall be sent by the County Crown Attorney to the Lieutenant-Governor, who may at any time annul the appointment. R. S. O. 1887, c. 79, s. 12.

[Sections 3 and 4 of Consolidated Statutes of U. C. are as follows:]

Fees in cases conducted by him at trial, where costs are paid by defendant.

3. In every case of misdemeanour tried at the Court of Quarter Sessions, in which costs are or may be ordered to be paid by a defendant, the County Attorney shall be entitled to fees as Attorney and Counsel for services rendered in such case, to be taxed by the Court according to the scale of allowance in the County Courts as nearly as the nature of such services will allow; such fees in case of conviction to form part of the costs payable by a defendant.

Fees in cases of felony or misdemeanour when costs are not paid by defendant.

4. In all cases of felony tried as aforesaid, and in all cases of misdemeanour in which no costs have been ordered to be paid, or, if ordered to be paid, cannot be made of the defendant, the County Attorney shall be entitled to receive for the services rendered by him in each such case the sum of five dollars, to be paid upon certificate of the Chairman of the Court of Quarter Sessions, and to form a portion of the expenses of the administration of criminal justice in Upper Canada.

See also sections 832-835 of The Criminal Code, 1892, of Canada.]

Fees in County Judges' Criminal Court.

16. For services in the County Judges' Criminal Court, the County Crown Attorney shall be entitled to the same fees as for like services at the Court of General Sessions of the Peace. R. S. O. 1887, c. 79, s. 15.

Percentage on money coming into his hands.

17. Every County Crown Attorney shall be allowed a percentage of \$4 on every \$100 of public moneys coming into his hands. R. S. O. 1887, c. 79, s. 16.

Return of fees.

18. Every County Crown Attorney and Clerk of the Peace shall, on or before the 15th day of January in every year, make, under oath, a return to the Inspector of Legal Offices of the aggregate amount of the fees and emoluments of his office during the preceding year, up to and including the 31st day of December. R. S. O. 1887, c. 79, s. 17.

CHAPTER 97.

An Act respecting Coroners.

APPOINTMENT s. 1.	QUALIFICATION OF JURORS, s. 8.
INQUESTS WHEN TO BE HELD, ss. 2, 3.	POWERS OF CORONERS :
FEEs FOR INQUESTS NOT ALLOWED IN CERTAIN CASES, s. 4.	As to witnesses and jurors, ss. 9, 10.
COUNTY ATTORNEY TO BE NOTIFIED, s. 5.	Procuring evidence of medical men and medical analysis, ss. 11-15.
WHERE INQUEST FOUND TO BE UNNECESSARY, s. 6.	JURORS' FEES, s. 16.
CORONERS NOT TO ACT WHERE INTERESTED, s. 7.	OTHER POWERS OF CORONERS NOT AFFECTED, s. 17.
	RETURNS OF INQUISITIONS, ETC., ss. 18, 19.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The Lieutenant-Governor may, whenever he thinks fit, appoint, under the Great Seal, one or more Coroners in and for every County, City and Town in the Province of Ontario, and for any Provisional Judicial or Territorial District, or Provisional County, or for any portion of the territory of Ontario, not attached to a County for ordinary municipal and judicial purposes. R. S. O. 1887, c. 80, s. 1.

[For appointment of a Stipendiary Magistrate as Coroner, see Cap. 86, s. 8.]

2. Except as provided in the next two sections, no inquest shall be held on the body of any deceased person by a Coroner until it has been made to appear to him that there is reason to believe that the deceased died from violence or unfair means, or by culpable or negligent conduct of others, under such circumstances as require investigation, and not through mere accident or mischance. R. S. O. 1887, c. 80, s. 2; 60 V. c. 3, s. 3.

3. Upon the death of a prisoner, the warden, gaoler, keeper or superintendent of the penitentiary, gaol, prison, house of correction, lock-up house, or house of industry in which the prisoner dies, shall immediately give notice thereof to some Coroner of the county, city or town in which the death has taken place, and the Coroner shall proceed forthwith to hold

an inquest upon the body except in the case of a death taking place in any county house of industry in which case such inquest shall not be necessary, unless after notification, the County Crown Attorney believes that such death took place under circumstances requiring investigation. R. S. O. 1887, c. 80, s. 3; 58 V. c. 17, s. 1.

Fees for inquest not allowed to Coroners in certain cases.

4.—(1) No fees shall be payable to a Coroner in respect of an inquest, unless, prior to the issuing of his warrant for summoning the jury, he shall have made a declaration in writing under oath (which oath may be administered by a Justice of the Peace, Commissioner for taking affidavits in the High Court, or a Notary Public, and shall be returned and filed with the inquisition), stating that from information received by him, he is of opinion that there is reason for believing that the deceased did not come to his death from natural causes or from mere accident or mischance, but came to his death from violence or unfair means or culpable or negligent conduct of others, under circumstances requiring investigation by a Coroner's inquest.

(2) This section shall not apply to an inquest held upon the written request of the County Attorney, or to an inquest held in the Districts of Muskoka, Parry Sound, Rainy River and Nipissing, upon the written request of a Stipendiary Magistrate; or to an inquest held under the preceding section, or under other similar provisions. R. S. O. 1887, c. 80, s. 4.

Notice to county attorney of proposed inquest.

5. Before holding any inquest the Coroner shall notify the County Crown Attorney of his intention so to do, and the County Crown Attorney, if so directed by the Attorney-General, shall attend at the inquest, and in case he so attends he may, if he thinks fit, examine or cross-examine any witnesses called at the inquest, and the Coroner shall summon such witnesses as the County Crown Attorney directs. 60 V. c. 14, s. 24.

Warrant for burial where after making declaration coroner deems inquest unnecessary.

6.—(1) In any case in which the death of any person has been reported to a Coroner, and he has in consequence of information received by him made the declaration required by section 4 of this Act, if after viewing the body of such deceased person and having made such further enquiries as he deems necessary, he comes to the conclusion that an inquest is unnecessary, he shall have the right to issue a warrant to bury, in the same manner as he would have had power to do in case an inquest had been actually held, and to withdraw the warrant for the holding of an inquest in case he has issued such warrant. 57 V. c. 31, s. 1.

Declaration to be made by coroner in such case.

(2) In every such case the Coroner shall forthwith make and file with the County Crown Attorney a declaration in writing under oath (which oath may be administered by a Justice of the Peace, Commissioner for taking affidavits in the High Court of Justice, or Notary Public) setting forth briefly the results

of such enquiry and the grounds on which the warrant for burial has been issued. 57 V. c. 31, s. 2.

(3) For such investigation and services as may be performed by any Coroner under and by virtue of the two preceding subsections, he shall be entitled to a fee of \$5 besides mileage in each case in which the County Crown Attorney certifies that there were sufficient grounds to warrant such investigation being made, and such fee shall be in lieu of all fees to which the Coroner would be entitled in respect of any proceedings taken by him towards holding an inquest. In all other respects the said fee shall be paid in the same manner and upon the same conditions as the fees of Coroners are now payable in cases in which inquests are held. 57 V. c. 31, s. 3.

Fees of
Coroners.

(4) Nothing in this section contained shall apply to or affect the case of a prisoner dying in any penitentiary, gaol, prison, house of correction, lock-up house or house of industry, nor relieve any Coroner from the performance of the duties imposed by section 3 of this Act. 57 V. c. 31, s. 5.

Prisoners
dying in
gaol, etc.

7. It shall not be lawful for a Coroner to conduct an inquest in any case where loss of life has been caused at or on a railroad, mine or other work whereof he is owner or part owner, either as a shareholder or otherwise, nor in any like case at or on a work where he is employed as medical attendant by the owner thereof, or by any agreement or understanding direct or indirect with the employees at or on such work. 57 V. c. 31, s. 4.

Coroners not
to act when
personally
interested.

8. The persons to be summoned to serve as jurors upon any Coroner's inquest and to attend thereon, shall be selected from such persons as are named in the Voters' List of the municipality in which the inquest is to be held, and are marked therein as qualified to serve as jurors. 60 V. c. 14, s. 23.

Who to be
jurors.

9. If a person, having been duly summoned as a juror to serve, or as a witness to give evidence upon a Coroner's inquest, does not, after being openly called three times, appear and serve as a juror, or appear and give evidence as a witness, the Coroner may impose upon the delinquent a fine not exceeding \$4; and shall thereupon make out and sign a certificate containing the name, residence, and trade or calling of the delinquent, the amount of the fine imposed, and the cause of the fine, and shall transmit the certificate to the clerk of the peace of the county in which the delinquent resides, on or before the first day of the General Sessions of the Peace then next ensuing, and shall cause a copy of the certificate to be served upon such delinquent either personally or by the same being left at his residence, within a reasonable time after the inquest. R. S. O. 1887, c. 80, s. 5.

Fine on
persons
summoned to
attend inquest
as jurors or
witnesses
and not
attending.

Fine how
enforced.

10. The fine so certified shall be estreated, levied and applied in like manner, and subject to the like powers, provisions and penalties in all respects, as if it had been a fine imposed at the General Sessions. R. S. O. 1887, c. 80, s. 6.

Coroner may
order medical
attendant of
deceased to at-
tend inquest.

11. Where, upon the summoning or holding of a Coroner's inquest, the Coroner finds that the deceased was attended during his last illness, or at his death, by any legally qualified medical practitioner, the Coroner may issue his order for the attendance of such practitioner as a witness at the inquest in the form following :

CORONER'S INQUEST AT _____, UPON THE BODY OF _____

By virtue of this my order, as Coroner for _____ you are required to appear before me and the Jury, at _____ the _____ day of _____, at _____ o'clock, to give evidence touching the cause of the death of _____ [and when the witness is required to make or assist at a post mortem examination, add: and make (or assist) in making a post mortem examination of the body, with (or without) an analysis (as the case may be), and report thereon at the said Inquest.]

Signed, _____ C. P.,

R. S. O. 1887, c. 80, s. 7.

Coroner.

If no medical
attendant
Coroner may
order atten-
dance of any
qualified prac-
titioner.

12.—(1) If the Coroner finds that the deceased was not so attended, he may issue his order for the attendance of any legally qualified medical practitioner being at the time in actual practice in or near the place where the death happened; and the Coroner may, at any time before the termination of the inquest direct a *post mortem* examination, with or without an analysis of the contents of the stomach or intestines, by the medical witness summoned to attend at the inquest; but if any person states upon oath before the Coroner, that in his belief the death was caused partly or entirely by the improper or negligent treatment of a medical practitioner or other person, such medical practitioner or other person shall not assist at the *post mortem* examination. R. S. O. 1887, c. 80, s. 8.

(2) In no case shall any Coroner direct a post-mortem examination to be made without the consent in writing of the County Crown Attorney unless an inquest is actually held. 60 V. c. 14, s. 22.

A majority of
the jurymen
may require
the Coroner to
summon an-
other medical
practitioner.

13.—(1) Where it appears to the majority of the jurymen sitting at a Coroner's inquest that the cause of death has not been satisfactorily explained by the evidence of the medical practitioner or other witnesses examined in the first instance, such majority may name to the Coroner, in writing, any other legally qualified medical practitioner or practitioners, and require the Coroner to issue his order in the form hereinbefore mentioned for the attendance of such last mentioned medical practitioner or practitioners, as a witness or witnesses, and for the making of a *post mortem* examination as in the last

preceding section mentioned, whether a *post mortem* examination has been previously made or not.

(2) The written request of the jury for any additional medical witnesses, under the provisions of this section, or a copy thereof certified by the Coroner, shall be attached by the Coroner to each order given by him on the treasurer of the county for the payment of the fees of such medical witness or witnesses. Request for additional medical witnesses to be attached to order for payment of fees.
R. S. O. 1887, c. 80, s. 9.

14. Where a legally qualified medical practitioner has attended in obedience to any order aforesaid, he shall receive for his attendance, if without a *post mortem* examination, \$5; if with a *post mortem* examination, without an analysis of the contents of the stomach or intestines, \$10; if with such analysis, \$20; together with the sum of twenty cents per mile for each mile he has to travel to and from the inquest, such travel to be proved by his own oath to the Coroner, who may administer the same; and the Coroner shall make his order on the treasurer of the county when the inquest is held in the county, and on the treasurer of the city when death occurs and the inquest is held in a city, in favour of such medical practitioner, for the payment of the fees or remuneration, and the treasurer shall pay the sum mentioned in the order to the medical witness out of any funds he may then have in the county or city treasury. Allowance to medical practitioner.
R. S. O. 1887, c. 80, s. 10. To be paid on Coroner's order, and by whom.

15. Where any such order for the attendance of any medical practitioner has been personally served, or if not personally served, has been received by him or left at his residence in sufficient time for him to have obeyed the order, and he has not obeyed the same, he shall forfeit the sum of \$40 upon complaint by the Coroner who held the inquest or by any two of the jury who sat thereon, made before any two Justices of the Peace of the county where the inquest was held, or of the county where the medical practitioner resides; and the Justices shall proceed to hear and adjudicate upon the complaint; and if the medical practitioner does not shew a sufficient reason for not having obeyed the order, they shall enforce the penalty by distress and sale of the offender's goods in the same manner as they are empowered to do upon a conviction under *The Ontario Summary Convictions Act*. Penalty on practitioner summoned and failing to attend.
R. S. O. 1887, c. 80, s. 11. Rev. Stat. c. 90.

16.—(1) Every juryman actually sitting at a Coroner's inquest, except an inquest held under section 3 of this Act, shall be entitled to receive the sum of fifty cents for any day upon which such inquest does not last more than four hours, and where the time occupied by such inquest on any day exceeds four hours, \$1 per day for each such day he attends such inquest, and every such juryman shall be paid the sum of ten cents per mile for each mile he necessarily travels from his place of residence to the place where the said inquest is held. Fees of jurors Coroners' inquest.
59 V. c. 25, ss. 1, 3.

Payment of
jurors' fees.

(2) The amounts to be paid to Coroner's jurors as aforesaid shall be certified by the Coroner, who shall make his order for payment thereof on the treasurer of the county in which the inquest is held, unless the death occurs in a city or separated town in such county, in which case the order shall be made on the treasurer of the said city or town; and the coroner shall make his order for payment on the treasurer of the city or town separated from the county, when the inquest is held in such city or separated town, unless the death occurs in the county outside of such city or town, in which case the order shall be made on the treasurer of the county; the treasurer on whom such order is made under the provisions hereof shall pay the sum or sums mentioned in the order to the persons entitled thereto out of any funds he may have on hand. 60 V. c. 15 Sched. A (73).

Other
powers of
Coroner not
affected.

17. Nothing herein contained shall affect any power otherwise by law vested in any Coroner for compelling any person to appear and give evidence before him, or for punishing any person for contempt of Court, in not so appearing and giving evidence or otherwise. R. S. O. 1887, c. 80, s. 12.

Return of in-
quisitions to
County Crown
Attorney.

18. Every Coroner shall forthwith after an inquisition found before him return the same and every recognizance taken before him, with the written information (if any) and the depositions and statements (if any) of the accused, to the Crown Attorney of the county in which the inquisition has been found. R. S. O. 1887, c. 80, s. 13.

Coroners to
return lists
of inquests.

19. Every Coroner shall, on or before the first day of January in every year, return to the Provincial Treasurer a list of the inquests held by him during the preceding year, together with the findings of the Juries. R. S. O. 1887, c. 80, s. 14.

[For special provisions as to Misconduct of Coroners, see Cap. 17, ss. 35-37.]

[For Coroner's fees, see Cap. 101.]

[For Duties of Coroners in relation to the Investigation of Accidents by Fire, see Cap. 275.]

CHAPTER 98.

An Act respecting Commissioners of Police appointed by the Government of Canada.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Every Commissioner of Police duly appointed under the Great Seal of Canada to be and act as such within the Province of Ontario, under and by virtue of the "*Act respecting the Police of Canada*," and authorized in that behalf by commission from the Lieutenant-Governor, under the Great Seal of this Province, shall have and exercise within the several Counties, Provisional Judicial or Territorial Districts, or Provisional Counties within this Province, all the powers and authority, rights and privileges, by law appertaining to Police Magistrates of Cities, and all the powers and authority, rights and privileges appertaining to Justices of the Peace generally; and shall be subject in all respects, except as otherwise provided by this Act, to the requirements of the law of this Province respecting Police Magistrates and the office of Justice of the Peace; but it shall not be necessary for a Commissioner of Police as aforesaid to possess any property qualification or to be actually resident within any County or other territorial division for which the administration of criminal Justice is provided, nor shall it be necessary for any Commissioner of Police to take or subscribe any oath of allegiance or of office within any County or District. R. S. O. 1887, c. 81, s. 1.

Powers of Dominion Commissioners of Police.
R. S. C. c. 184.

Qualification of Commissioners.

2. The police constables appointed or employed by a Commissioner of Police shall be charged with all the powers, rights and responsibilities which belong by law to constables duly appointed in this Province, and they shall be subject to the Commissioner of Police, and liable to all the responsibilities, forfeitures and penalties provided by or expressed in the said *Act respecting the Police of Canada*. R. S. O. 1887, c. 81, s. 2.

Police constables.
R. S. C. c. 184.

3. The Commissioners of Police, and the police constables, notwithstanding anything herein to the contrary, shall as such have no power or authority in respect of offences against municipal by-laws, or as such with any other purely municipal matters; and this Province shall not be liable to any charge

Commissioners and constables to have no authority in municipal matters.

for the maintenance of the Commissioners of Police or police constables. R. S. O. 1887, c. 81, s. 3.

Revocation of
commissions
by Lieutenant-
Governor.

4. In case the Lieutenant-Governor revokes a commission issued by him under this Act, the authority of such Commissioner, and of any constable appointed by him, as far as the same are given under or by virtue of this Act, shall forthwith cease. R. S. O. 1887, c. 81, s. 4.

CHAPTER 99.

An Act respecting Constables.

APPOINTMENT BY GENERAL SESSIONS
OF THE PEACE, s. 1.

Oath, s. 2.

Duration of appointment, s. 3.

HIGH CONSTABLES, ss. 4-11.

APPOINTMENT OF CONSTABLES BY
COUNTY JUDGE, ss. 12-15.

APPOINTMENT BY CERTAIN POLICE
MAGISTRATES, s. 16.

SUSPENSION FROM OFFICE, ss. 17. 20.

INQUIRIES BY INSPECTOR OF LEGAL
OFFICES, ss. 18-20.

APPOINTMENT BY LIEUTENANT-GOV-
ERNOR,

Provincial constables, s. 21.

PERSONS EXEMPT, s. 22.

SPECIAL CONSTABLES :

Appointment, ss. 23-26.

Powers, ss. 27-29.

Remuneration, ss. 30-32.

Suspension and determination of
services, ss. 33, 34.

Offences and penalties, ss. 35-43.

PROTECTION OF PERSONS ACTING
UNDER sec. 24 *et seq.*, ss. 44, 45.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows :—

APPOINTMENT BY GENERAL SESSIONS.

1. The Justices of the Peace may from time to time, at any Appointment
sitting or adjourned sitting of the Court of General Sessions of of Constables.
the Peace, but not at any special sessions, appoint a sufficient
number of fit and proper persons to act as Constables in each
township, incorporated village, police village and place within
their county, and may, in like manner, from time to time, Dismissal.
in their discretion, dismiss any Constable so appointed. R.S.O.
1887, c. 82, s. 1; 53 V. c. 18, s. 4; 59 V. c. 26, s. 12, part.

2. The persons so appointed shall, before entering on the Constables to
duties of their office, take and subscribe the following oath, be sworn.
which any Justice of the Peace may administer :

“ I, _____, having been appointed Constable The Oath.
for the County (or United Counties) of _____ do solemnly swear
that I will truly, faithfully and impartially perform the duties appertain-
ing to the said office, according to the best of my skill and ability : So
help me God.”

R. S. O. 1887, c. 82, s. 2.

3. Every Constable so appointed, and having taken the Continuance
aforesaid oath, shall continue in office at least one year, and in office.
shall further continue in office from year to year without
re-appointment, unless he claims exemption from serving as

Constable, in which case he shall be released at any time after the end of the first year. R. S. O. 1887, c. 82, s. 3.

HIGH CONSTABLE.

Appointment, remuneration and equipment of High Constable. 4. The municipal council of every county shall, where a High Constable has not been appointed, or where the office is vacant, appoint a fit and proper person to be High Constable for the county, and may fix his remuneration by salary or otherwise, and may allow him such sums for expenses, and may supply him with such arms, accoutrements, clothing and other necessities, as may be deemed proper. 59 V. c. 26, s. 1.

When council neglects to appoint. 5. In case of a vacancy, if the council does not within three months after such vacancy occurs fill the same, the appointment may be made by the County Judge, the Warden, the Sheriff and the County Crown Attorney, or any three of them, and the person so appointed shall hold the office of High Constable until his appointment is confirmed, or a new appointment made by the council under the authority of this Act. 59 V. c. 26, s. 2.

Present High Constable continued under this Act. 6. In counties where there is now a High County Constable duly appointed, he shall continue to be High Constable under the same tenure of office, and shall have the same powers and privileges, and be subject to the same liability, and to the performance of the same duties, and shall be subject also to suspension by the Inspector of Legal Offices, in the same manner as if he had been appointed under this Act. 59 V. c. 26, s. 3.

Oath of High Constable. 7.—(1) Every person who may hereafter be appointed under this Act to be a High Constable shall, before entering on the duties of his office, take and subscribe the following oath, which any Justice of the Peace may administer:—

Form of. I, _____, do swear that I will well and truly serve Our Sovereign Lady the Queen in the office of High Constable for the county (or united counties) of _____ without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and will prevent all offences against the persons and properties of Her Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law: So help me God.

Oath and appointment to be deposited with Clerk of Peace. (2) The oath, together with a copy of the by-law, resolution or other writing by which the High Constable was appointed, shall be by him deposited in the office of the Clerk of the Peace, who shall immediately notify the Inspector of Legal Offices of the appointment. 59 V. c. 26, s. 4.

High Constable to hold office during pleasure of council. 8. All persons appointed to be High Constables shall hold office during the pleasure of the council of the county or united counties for which they are appointed. 59 V. c. 26, s. 5.

9. Every High Constable so appointed or continued in office under this Act shall have the supervision of all the Constables in his county, and he shall be charged with the special duties of preserving the peace, preventing robberies and other crimes, and apprehending offenders; and shall have generally all the powers and privileges and be liable to all the duties and responsibilities, which belong to Constables duly appointed. To have supervision of other Constables.
59 V. c. 26, s. 6.

10. The High Constable of any county may upon the recommendation of the Sheriff and County Crown Attorney, be, by the Lieutenant-Governor in Council, appointed to be or authorized to exercise the powers of a Provincial Constable. May be appointed Provincial Constable.
59 V. c. 26, s. 7.

11. Every High Constable shall for services rendered by him be entitled to the fees allowed by law, unless the council otherwise provides for payment therefor. To be entitled to fees unless otherwise provided. 59 V. c. 26, s. 8.

APPOINTMENT BY COUNTY JUDGE.

12. To prevent injurious delay in appointing County Constables, arising from the long intervals between the sittings of the Courts of General Sessions of the Peace, any Judge of a County Court of any County, may, from time to time, appoint Constables for the County. Appointment of Constables by County Court Judges. R. S. O. 1887, c. 82, s. 4.

13. The Judge making the appointment shall forthwith notify the Clerk of the Peace thereof. Clerk of the Peace to be notified. R. S. O. 1887, c. 82, s. 5.

14. The Clerk of the Peace shall report every such appointment to the next Court of General Sessions of the Peace which is holden after he receives notice thereof from the Judge, and unless at such Court the appointment is revoked by order duly passed in Sessions, the same shall continue as if it had been made at such Court. Clerk to report to the General Sessions. R. S. O. 1887, c. 82, s. 6.

15. A Constable so appointed by a Judge as aforesaid shall, during the continuance of the appointment, have the same authority and privileges and be subject to the same liability and the performance of the same duties as if appointed by the Court of General Sessions of the Peace, and every Constable appointed by any authority under this Act shall while he holds office be a County Constable. Authority of Constables appointed by Judge. R. S. O. 1887, c. 82, s. 7;
59 V. c. 26, s. 12, part.

APPOINTMENT BY POLICE MAGISTRATES.

16.—(1) A salaried County or District Police Magistrate shall have power from time to time to appoint a Constable for the county or union of counties or district of which he is a Police Magistrate, such Constable to hold office for not more than thirty days. Certain Police Magistrates may appoint temporary Constables.

(2) The Police Magistrate making any such appointment shall forthwith notify the Provincial Secretary thereof.

(3) The appointment may be revoked by the Police Magistrate, or by the Provincial Secretary, before the expiration of the thirty days.

(4) A Constable appointed by a Police Magistrate shall have the same authority and privileges, and be subject to the same liability and the performance of the same duties, as if appointed by the Court of General Sessions of the Peace. R. S. O. 1887, c. 82, s. 8.

SUSPENSION FROM OFFICE BY COUNTY JUDGE.

Suspension of
Constables by
County Court
Judge.

17. The Judge of the County Court may suspend from office a High Constable or any County Constable for any period in the discretion of the Judge, but not beyond one week after the time appointed for the next sittings of the General Sessions of the Peace; the suspension shall be by notice in writing, and in case the Judge considers the suspended officer deserving of dismissal, the Judge shall, immediately after suspending him, report the case fully to the Clerk of the Peace for submission to the Justices at the next General Sessions of the Peace; and the Justices may dismiss the officer, or direct him to be restored to his office, after the period of his suspension has expired, or after such further period of suspension as they may order. R. S. O. 1887, c. 82, s. 9.

INQUIRIES BY INSPECTOR.

Supervision by
Inspector of
Legal Offices.

18. The Inspector of Legal Offices shall have authority to inspect the offices of High Constables and County Constables, and to hold inquiries into the conduct of any of the said officers in connection with their official duties. 59 V. c. 26, s. 9.

Inspector may
examine on
oath and com-
pel attendance
of witnesses.

19. When the said Inspector has occasion to institute an inquiry into the conduct of any of the said officers in relation to their official duties or acts, it shall be lawful for him to require such officer or any other person or persons to give evidence on oath; and for this purpose the said Inspector shall have the same power to summon such officers and other persons to attend as witnesses, to enforce their attendance, and to compel them to produce books and documents and to give evidence, as any Court has in civil cases; and the said officers shall from time to time make such returns respecting their duties and acts as the Inspector requires. 59 V. c. 26, s. 10.

Inspector may
suspend High
or County
Constables.

20. The Inspector of Legal Offices may suspend any Constable for any period not beyond one week after the next meeting of the county council. The suspension shall be by notice in writing, and in case the Inspector considers the suspended officer deserving of dismissal, the Inspector shall

immediately after suspending him report the case fully to the county clerk for submission to the county council at its next meeting; and the council may dismiss the officer, or direct him to be restored to his office after the period of his suspension has expired, or after such further period of suspension as the council may order. 59 V. c. 26, s. 11.

APPOINTMENT BY LIEUTENANT-GOVERNOR.

Provincial Constables.

21. The Lieutenant-Governor may appoint, either permanently or for such a period as he thinks fit, persons to be Provincial Constables, and every person so appointed shall, while he holds office, be a Constable of every county and district in Ontario, and, as such, shall have authority to act in any part of this Province. R. S. O. 1887, c. 82, s. 10.

Appointment of Provincial Constables by Lieutenant-Governor.

[As to appointment, etc., of Constables in any unorganized District or Provisional County, see Cap. 109, secs. 48 and 49.]

PERSONS EXEMPT.

22. The officers, non-commissioned officers and men of corps of volunteers shall, while they continue such, be exempt from serving as Constables (except as special constables); and a certificate under the hand of the officer commanding any such corps shall be sufficient evidence of the service in his corps of any officer, non-commissioned officer or man for the then current year, and of his exemption as aforesaid. R. S. O. 1887, c. 82, s. 12.

Exemption of Volunteers from serving as Constables

APPOINTMENT OF SPECIAL CONSTABLES.

23. In case it is made to appear to any two or more Justices of the Peace having jurisdiction in any territorial division or place in this Province, upon the oath of any credible witness, that any tumult, riot, or felony has taken place or is continuing, or may be reasonably apprehended in any territorial division or place situate within the limits for which the respective Justices usually act, and in case the Justices are of opinion that the ordinary officers appointed for preserving the peace are not sufficient for the preservation of the peace and for the protection of the inhabitants and the security of the property in such territorial division or place aforesaid, then and in every such case the Justices or any two or more Justices acting for the same limits may nominate and appoint, by precept in writing under their hands, so many as they think fit of the householders or other persons not legally exempt from serving in the office of Constable, residing in such territorial division or place aforesaid, or in the neighbourhood thereof, to act as Special Constables for such time

Any two or more Justices of the Peace empowered to appoint special constables in certain cases of apprehension of riot, etc.

Who may be appointed.

and in such manner as to the said Justices respectively seems necessary for the preservation of the public peace and for the protection of the inhabitants and the security of property in the territorial division or place. R. S. O. 1887, c. 82, s. 13.

Such Justices may administer an oath of office to the person so appointed.

24. The Justices of the Peace who appoint Special Constables by virtue of this Act, or any one of them, or any other Justice of the Peace acting for the same limit, may administer to any person so appointed the following oath, that is to say :

Oath.

“ I, A. B., do swear that I will well and truly serve our Sovereign Lady the Queen in the office of Special Constable for the of , without favour or affection, malice or ill-will ; and that to the best of my power, I will cause the peace to be kept and preserved, and will prevent all offences against the persons and properties of Her Majesty's subjects ; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law : So help me God.”

R. S. O. 1887, c. 82, s. 14.

Notice of appointment to be sent to Provincial Secretary.

25. In case it is deemed necessary to nominate and appoint Special Constables as aforesaid, notice of the nomination and appointment, and of the circumstances which rendered it expedient, shall be forthwith transmitted by the Justice making the nomination and appointment to the Secretary of the Province. R. S. O. 1887, c. 82, s. 15.

Justices may make regulations touching special constables.

26. The Justices of the Peace who appoint any Special Constables under this Act, or any two of them, or the Justice, acting for the limit within which the Special Constables have been called out, may, at a special session of the last mentioned Justices, or the majority of the last mentioned Justices, at such special session, make such orders and regulations as may from time to time be necessary and expedient for rendering the Special Constables more efficient for the preservation of the public peace, and may remove any such Special Constable from his office for any misconduct or neglect of duty therein. R. S. O. 1887, c. 82, s. 16.

Powers of special constables, and local extent of such powers.

27. Every Special Constable appointed under this Act shall, not only within the territorial division or place for which he has been appointed, but also throughout the entire jurisdiction of the Justices who appoint him, have, exercise and enjoy all such powers, authorities, advantages and immunities, and be liable to all such duties and responsibilities, as any Constable duly appointed has by virtue of any law or statute whatsoever. R. S. O. 1887, c. 82, s. 17.

Constables may act in an adjoining division in certain cases.

28. Where Special Constables appointed under this Act are serving within a territorial division or place, and two or more Justices of the Peace of an adjoining territorial division or place, make it appear, to the satisfaction of two or more

Justices of the Peace, acting for the limits within which the Special Constables are serving, that extraordinary circumstances exist which render it expedient that the Special Constables should act in such adjoining territorial division or place, then and in every such case the last mentioned Justices may, if they think fit, order all or any of the Special Constables to act in the adjoining territorial division or place in such manner as to the last mentioned Justices seems proper. R. S. O. 1887, c. 82, s. 18.

29. Every such Special Constable, during the time he so acts in such adjoining territorial division or place, shall have, exercise and enjoy all such powers, authorities, advantages and immunities, and be liable to the same duties and responsibilities, as if he were acting within the territorial division or place for which he was originally appointed. R. S. O. 1887, c. 82, s. 19. Their powers in such adjoining division.

30. The Justices of the Peace acting for the limits within which the Special Constables have been called out to serve, may, at a special session to be held for that purpose, or the majority of the Justices at such special session, may from time to time order such reasonable allowances for their trouble, loss of time and expenses, not exceeding \$1 per diem, to be paid to such Special Constables who have so served or are then serving, as to the Justices or to the majority of them seems proper. R. S. O. 1887, c. 82, s. 20. Special constables may be paid a per diem allowance.

31. The Justices so ordering shall make every order for the payment of the allowances and expenses upon the Treasurer of the territorial division or other municipal division within which the Special Constables have been called out to serve, and the Treasurer shall pay the same out of any moneys in his hands at the time, and shall be allowed the same in his accounts, and the sum shall be provided for by the council of the territorial division or other municipal division wherein the expense arises. R. S. O. 1887, c. 82, s. 21. Allowance to be paid by the Treasurer of the municipality.

32. The Justices of the Peace assembled at a special session for any of the purposes mentioned in this Act, may adjourn the same from time to time as they think proper; and every special session actually held for any of the purposes mentioned in this Act, shall be deemed and taken to have been legally held until the contrary is proved. R. S. O. 1887, c. 82, s. 22. Special sessions may be adjourned and shall be deemed legally held until the contrary is proved.

33. The Justices who have appointed Special Constables under this Act, or the Justices acting for the limits within which the Special Constables have been called out, at a special session to be held for that purpose, or the majority of such last mentioned Justices at such special session, may suspend or determine the service of all or any of the Special Constables so called out, as to the Justices respectively seems fitting; and notice of the suspension or determination of Justices may suspend or determine the services of special constables.

the services of all or any of the Special Constables shall be forthwith transmitted by the respective Justices to the Secretary of the Province. R. S. O. 1887, c. 82, s. 23.

PENALTIES.

Special constables to deliver up their staves, etc., when discharged.

34. Every Special Constable shall, within one week after the expiration of his office, or after he has ceased to hold or exercise the same pursuant to this Act, deliver over to his successor, if any has been appointed, or otherwise to such person and at such time and place as may be directed by a Justice of the Peace acting for the limits within which the Special Constable has been called out, every staff, weapon and other article which has been provided for such Special Constable under this Act; and if any Special Constable omits or refuses so to do, he shall, on conviction thereof before two Justices of the Peace, forfeit and pay for the offence such sum of money, not exceeding \$8, as to the convicting Justices seems proper. R. S. O. 1887, c. 82, s. 24.

Penalty.

Penalty on persons appointed and refusing to take the oath.

35. If any person being appointed a Special Constable as aforesaid refuses to take the oath hereinbefore mentioned when thereunto required by the Justices of the Peace who so appointed him, or by any two of them, or by any other two Justices of the Peace acting for the same limits, he may be convicted thereof forthwith before the Justices so requiring him, and shall forfeit and pay such sum of money, not exceeding \$20, as to the convicting Justices seems proper. R. S. O. 1887, c. 82, s. 25.

Penalty for neglect to appear at place appointed for taking such oath.

36. If a person, being appointed a Special Constable as aforesaid, neglects or refuses to appear for the purpose of taking the said oath at the time and place for which he has been summoned, he may be convicted thereof before the Justices who appointed him, or any two of them, or before any other two Justices of the Peace acting for the same limits, and shall forfeit and pay such sum of money, not exceeding \$20, as to the convicting Justices seems proper, unless such person proves to the satisfaction of the Justices that he was prevented by sickness or some unavoidable accident which in the judgment of the Justices is a sufficient excuse. R. S. O. 1887, c. 82, s. 26.

Penalty for neglecting to act or to obey orders.

37. If a person having been appointed a Special Constable as aforesaid, and being called upon to serve, neglects or refuses to serve as such Special Constable, or to obey such lawful orders or directions as may be given to him for the performance of the duties of his office, the person so offending shall, on conviction thereof before two Justices of the Peace, forfeit and pay for every such neglect or refusal such sum of money, not exceeding \$20, as to the Justices seems proper, unless the person proves to the satisfaction of the Justices that

he was prevented by sickness or some unavoidable accident in the judgment of the Justices constituting a sufficient excuse. R. S. O. 1887, c. 82, s. 27.

38. The Justices of the Peace before whom any person is summarily convicted of an offence against this Act may cause the conviction to be drawn up in the following form of words, or to the like effect, that is to say :

Form of conviction.

To Wit : } Be it remembered, that on the day of ,
 { in the year of our Lord , in the of , in
 the County (or as the case may be) of , J. N. is convicted
 before us A. B. and C. D., two of Her Majesty's Justices of the Peace for
 the said County (or as the case may be) of ,
 for that he the said J. N., did (here specify the offence, and the time and
 place when and where the same was committed, as the case may be), and
 we do adjudge that the said J. N. shall for the said offence forfeit the
 sum of , and shall pay the same immediately (or shall pay
 the same on or before the day of) to the
 Treasurer of the .

Given under our hands the day and year first above mentioned.

A. B.

C. D.

R. S. O. 1887, c. 82, s. 28.

39. The Justices of the Peace by whom any person is summarily convicted and adjudged to pay any sum of money for an offence against this Act, may adjudge that such person shall pay the same either immediately or within such period as the Justices think fit; and in case such sum of money is not paid by the time so appointed, the same shall be levied by distress and sale of the goods and chattels of the offender, together with the reasonable charges of the distress; and for want of sufficient distress the offender shall be imprisoned in the common gaol for any term not exceeding one month when the fine to be paid does not exceed \$20, and for any term not exceeding two months in any other case; the imprisonment to cease in every case upon payment of the sum due. R. S. O. 1887, c. 82, s. 29.

How penalties may be levied if not paid within the time appointed.

40. No conviction for an offence against this Act shall be quashed for want of form, or be removed by *certiorari* or otherwise into the High Court; and no warrant of commitment shall be held void by reason of any defect therein, provided it is therein alleged that it is founded on a conviction, and there is a good and valid conviction to sustain the same. R. S. O. 1887, c. 82, s. 30.

Convictions not to be removed or declared void for want of form, etc.

41. Where a distress has been made for levying moneys by virtue of this Act, the distress itself shall not be deemed unlawful, nor the party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant, distress or other proceedings relating

Provisions as to distress and proceedings under it.

thereto, nor shall the party distraining be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but the person aggrieved by the irregularity may recover full satisfaction for the special damage, if any. R. S. O. 1887, c. 82, s. 31.

Limitation of prosecutions.

42. The prosecution for every offence punishable upon summary conviction by virtue of this Act, shall be commenced within two months after the commission of the offence. R. S. O. 1887, c. 82, s. 32.

Application of penalties.

43. Every penalty or forfeiture for any offence against this Act shall be paid to the treasurer of the territorial division or other municipal division within which the offence was committed. R. S. O. 1887, c. 82, s. 33.

PROTECTION OF PERSONS ACTING UNDER SECTION 23 AND FOLLOWING SECTIONS.

Actions to be tried in the county or district, and within six months.

44. All actions and prosecutions against any person for anything done in pursuance of section 23 and the subsequent sections of this Act shall be tried in the county or district where the fact was committed, and shall be commenced within six months after the fact committed, and not otherwise; and notice in writing of such cause of action shall be given to the defendant one month at least before the commencement of the action. R. S. O. 1887, c. 82, s. 34.

Tender of amends.

45. No plaintiff shall recover in such action if tender of sufficient amends was, by or on behalf of the defendant, made before action brought, or if a sufficient sum of money has been paid into Court since action brought; and though a verdict is given for the plaintiff in the action, the plaintiff shall not have costs against the defendant, unless the Judge before whom the trial is had certifies his approbation of the action and of the verdict obtained. R. S. O. 1887, c. 82, s. 35.

No costs unless on certificate of Judge.

CHAPTER 100.

An Act to authorize Police Constables to take Bail.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where a person charged with an offence against any Statute of the Province of Ontario, or against any by-law passed under any such Statute, is taken into custody either with or without the warrant of a Justice of the Peace and is brought into a police station in a city at any time during the day or night, the police officer in charge of the station may, if he thinks the case a proper one, take bail without fee from such person, by recognizance conditioned for his appearance for examination within two days before the Police Magistrate or other Justice in the city at the time and place therein specified. 59 V. c. 27, s. 1.

When officers in charge of police station may take bail.

2. A recognizance so taken shall be of equal obligation on the parties entering into the same, and liable to the same proceedings for the estreating thereof as if taken before a Justice of the Peace. 59 V. c. 27, s. 2.

Effect of recognizance so taken.

3. The said police officer shall enter in a book the name, residence and occupation of the person entering into the recognizance, and of his surety or sureties, if any, with the condition of the recognizance, and the sums acknowledged and a proper book shall be kept in every city police station, for the purpose of making such entries. 59 V. c. 27, s. 3.

Entry of recognizance by person taking same.

4. The said police officer shall make a return of all recognizances taken by him to the Police Magistrate (or other Justice present) at the time when, and place where, the person charged is required to appear. 59 V. c. 27, s. 4.

Return of recognizance to Magistrate on day for appearance of accused.

5. If the person charged does not appear at the time and place required, or during the time such Police Magistrate or other Justice is sitting, the Police Magistrate or Justice shall within forty-eight hours after such failure to appear cause a record of the recognizance to be drawn up and signed by the said police officer, and shall return the same to the next Court of General Sessions of the Peace for the county in which the

Record of recognizance when accused fails to appear.

city is situated, with a certificate on the back thereof signed by the Police Magistrate or Justice, stating that the person charged has not complied with the obligation in the recognizance contained. 59 V. c. 27, s. 5.

Proceedings
for estreat of
recognizance.

6. The Clerk of the Peace shall make out the like estreats and schedules of every such recognizance as of recognizances forfeited in General Sessions. 59 V. c. 27, s. 6.

Enlarging
recognizance.

7. If the person charged applies by any person on his behalf to postpone the hearing of the charge against him, and the Police Magistrate or Justice thinks fit to consent thereto, the said Police Magistrate or Justice may from time to time enlarge the recognizance to such further time as he appoints and unless the sureties, if any, appear and object they shall continue bound until the final determination of the charge before such Police Magistrate or Justice. 59 V. c. 27, s. 7.

Recognizance
to be dis-
charged with-
out fee.

8. When the matter is heard and determined, either by the dismissal of the charge, or by binding over the person charged to answer the matter of the complaint at the General Sessions or otherwise, the recognizance for his appearance before a Justice shall be discharged without fee. 59 V. c. 27, s. 8.

3. *Expenses of Administration of Justice.*

CHAPTER 101.

An Act respecting the Fees of Officers engaged in the Administration of Justice.

RULES PRESCRIBING FEES OF COUNSEL, SOLICITORS AND OTHERS, s. 1.	PENALTIES FOR TAKING UNAUTHORIZED FEES, ss. 7, 8.
FEES OF SHERIFFS, CORONERS, CLERKS OF THE PEACE, CONSTABLES AND CRIERS, ss. 2-4, 6, 10-12.	FEES TO GAOL SURGEONS, s. 9.
LEVYING FEES, s. 5.	SPECIAL ALLOWANCES AND ADVANCES TO CONSTABLES, s. 13.
	PROLONGED SITTINGS OF COURT, s. 14.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1.—(1) Where not otherwise provided by law, the Judges authorized to make Rules under *The Judicature Act* may from time to time determine and by Rule or Order declare the fees to be allowed to any Counsel, Solicitor, or other such officer or person for or in respect of any business done or transacted in the High Court in criminal prosecutions, and in all matters, causes and proceedings which relate to the Queen's Revenue, and in all prosecutions, matters and proceedings under any Commission or Court of Oyer and Terminer and General Gaol Delivery, or under any Special Commission or Court of Oyer and Terminer.

(2) The Judges shall, in tables to be framed by them as aforesaid, distinguish the fees to be paid by private individuals.
R. S. O. 1887, c. 83, s. 1.

2. Subject to the said Rules or Orders the table of fees in the Schedule appended to this Act, shall be and constitute the fees to be taken by Sheriffs, Coroners, Clerks of the Peace, Constables and Criers respectively, for the services therein mentioned in respect of any business by them done and transacted in all such prosecutions, matters, causes and proceedings as aforesaid, and in proceedings in the County Judge's

Framing tariff of fees to be allowed in criminal and Exchequer cases.

Rev. Stat. c. 51.

Fees in criminal matters—to Sheriffs, Coroners, Clerks of the Peace, etc.

Criminal Court and before Coroners or Justices of the Peace.
R. S. O. 1887, c. 83, s. 2.

Arrangement
may be made
with Clerk
of the Peace
as to his fees.

Proviso.

3. It shall be lawful for a county council to agree from time to time with the Clerk of the Peace for the payment to him of a gross annual sum, in lieu of all fees chargeable by him to the county, and which are not repayable to the county by the Province: Provided always, that either of the parties to any such agreement may determine the same on the 31st day of December in any year, by giving to the other, one month's notice, in writing, of his or their intention so to do.
R. S. O. 1887, c. 83, s. 3.

Fees to con-
tables.

4. The Lieutenant-Governor in Council may from time to time alter the fees to be taken by constables for services rendered by them in the administration of criminal justice or in any proceedings had before Coroners or Justices of the Peace.
R. S. O. 1887, c. 83, s. 4.

Levying fees.

5. All percentages, fees or allowances, on levying fines and recognizances, may be levied over and above the amount of the fines and recognizances. R. S. O. 1887, c. 83, s. 5.

Fees for ser-
vices not men-
tioned herein.

6. Nothing herein contained shall deprive any of the before-mentioned officers of fees allowed by any Act of Parliament, or of the Legislature of this Province, for other services not herein provided for. R. S. O. 1887, c. 83, s. 6.

Penalty for
taking higher
fees.

7. If any officer hereinbefore mentioned wilfully and knowingly demands or receives any other or greater fee or allowance than the fee and allowance to which he is entitled under this Act, for any of the services performed by him (unless allowed by some other Act of Parliament, or of the Legislature of this Province or by the Lieutenant-Governor in Council under section 4 of this Act), he shall, for every such offence, forfeit and pay the sum of \$40 to any person who sues therefor in any Court of competent jurisdiction.
R. S. O. 1887, c. 83, s. 7.

Limitation of
actions for
penalties.

8. Every such action must be brought within six months after the offence was committed, and not afterwards. R. S. O. 1887, c. 83, s. 8.

Fees of Gaol
Surgeon.

9. There may be paid to Gaol Surgeons for the examination of every prisoner eligible for removal, or sentenced to the Central Prison, and for the examination of every prisoner whom it is proposed to sentence or remove to the Female Reformatory, including certificate, the fee of \$1. R. S. O. 1887, c. 83, s. 9.

Fees of
Sheriffs.

10. The tariff of fees established by this Act, for the services of Sheriffs in connection with offenders sentenced or liable to be removed to the Central Prison, shall apply also to

offenders sentenced or liable to be removed to the Female Reformatory, or to the Reformatory for Boys; the fees shall, in the first instance, be paid out of county funds, unless the gaol is owned and maintained by a city municipality in which case the fees, in respect of prisoners convicted for offences committed within the city limits, shall be paid in the first instance out of the city funds, and so far as they relate to prisoners convicted for offences committed in the county without the limits of the city, shall be paid in the first instance out of the county funds; and the county or city may be subsequently repaid from the Consolidated Revenue such proportion thereof as relates to prisoners convicted of indictable offences at the Assizes, General Sessions or County Judges' Criminal Court, or convicted by Police or Stipendiary Magistrates, under Part LV. of *The Criminal Code, 1892*, entitled *Summary Trials of Indictable Offences*. 55-56 V. c. 25 (Dom.).
 R. S. O. 1887, c. 83, s. 10.

11. Items numbered 14, 16, 32, 35, 41 and 42, in the Schedule, as to Sheriff's fees, shall apply in any year to any county in which the net income of the Sheriff for the next preceding year did not exceed \$2,000, and not otherwise, and items numbered 16, 32, 33, 43, 44 and 45 shall not apply to the County of York or the City of Toronto. R. S. O. 1887, c. 83, s. 11; 56 V. c. 5, ss. 16, 17. Certain items to apply to certain counties.

12.—(1) In any case in which in the opinion of the Warden and Crown Attorney of a county, special services not covered by the ordinary tariff are necessary for the detection of crime or the capture of persons who are believed to have committed crimes of a serious character, the Warden and County Attorney aforesaid may authorize any constable or other person, to perform these services and shall certify upon the account to be rendered by the constable or other person what they deem a reasonable allowance to be paid to the person employed, and the amount so certified shall be allowed to such person in the accounts in respect of the administration of justice, and shall be paid in the first instance by the county, and one-half thereof shall be repaid to the county by the Province. Allowance to constables and others for special services.

(2) No allowance shall in any other case be made hereunder to any salaried constable or other officer, unless the constable or officer is entitled to receive for his own use in addition to his salary, the fees earned by him.

(3) Where the Warden and County Crown Attorney aforesaid deem it necessary or expedient, they may direct the treasurer of the county to advance to the constable or other person, such sum or sums from time to time as they may name, for the purpose of paying the reasonable and necessary expenses incurred or to be incurred by such constable or other person in the performance of the special services aforesaid: and the treasurer of the county shall pay such sum or sums upon the written order of Advances to Constables, etc., for special services.

the Warden and County Crown Attorney, and shall deduct the amount thereof from the subsequently certified account of the constable or other person employed.

Application of this section. (+) This section shall not apply to services in a city or separated town for which there is a staff of salaried police officers. R. S. O. 1887, c. 83, s. 12.

In case of emergency Reeve and County Attorney may order advance to constable. **13.** In case of emergency and absence of the Warden, or inability to communicate with him in time, the reeve of the municipality in which the crime was committed, or is supposed to have been committed, shall, jointly with the County Crown Attorney, have authority to direct the payment in advance by the County Treasurer to any high or county constable of a sum not exceeding ten dollars, in respect of any special services deemed by them to be necessary for the detection of crime or the capture of persons who are believed to have committed crimes of a serious character; and they shall certify on the account to be rendered by the constable what they may deem to be a reasonable allowance for the services, and the treasurer shall, on the written order of the Warden or Reeve and County Crown Attorney, pay the sum so directed to be advanced, as in other cases in the administration of justice. 59 V. c. 26, s. 15.

Allowance in case of prolonged sittings. **14.** Where any sittings of the High Court, County Court, or General Sessions of the Peace is continued after eight o'clock in the evening, an additional allowance, not exceeding one day's pay, may, upon the certificate of the presiding Judge, be made to any officer in attendance upon such Court who is paid for services by a per diem allowance. R. S. O. 1887, c. 83, s. 13.

[As to return of fees by Clerks of the Peace, see Cap. 96, sec. 18.]

SCHEDULE.

(Section 2.)

TABLE OF FEES TO BE RECEIVED BY SHERIFFS, CORONERS, CLERKS OF THE PEACE, CONSTABLES AND CRIERS :

SHERIFFS.

1. Attending the Assizes, <i>per diem</i>	\$5 00
2. Attending the General Sessions, <i>per diem</i>	5 00
3. Summoning each Grand Jury for the Assizes or General Sessions	12 00
4. Summoning each Petit Jury for the Assizes or General Sessions	24 00
5. For every prisoner discharged from gaol, having been committed by warrant for trial at the Assizes or General Sessions	1 00
6. For the discharge from gaol of every prisoner convicted by a Police or Stipendiary Magistrate under Part LV. of <i>The Criminal Code, 1892</i>	00

7. Bringing up each prisoner for arraignment, trial and sentence— in all, for each prisoner, whether convicted or acquitted....	\$2 00
8. For arraignment, trial and sentence, in all for each prisoner, whether convicted or acquitted, who has been out on bail ..	2 00
9. Drawing calendar of prisoners for trial at the Assizes, including copies	5 00
10. Advertising the holding the Assizes.....	4 00
11. “ “ the General Sessions.....	4 00
12. Every Annual or General Return, required by law or by the Government, respecting the Gaol or the Prisoners therein..	5 00
13. Every other Return made to the Government	4 00
14. Every return made to the Legislature	4 00
15. Every Return to the Sessions required by Statute or by order of the Court.....	2 00
16. Every return which may be required by the county or county council ..	1 00
17. For every return to the Inspector of Legal Offices	2 00
18. Drawing calendar of prisoners for trial at the General Sessions, including copies.....	4 00
19. Returning Precepts to the Assizes or Sessions	4 00
20. Conveying prisoners sentenced at Assizes or Sessions, to the Penitentiary or Reformatory, or to another county (exclusive of disbursements), for each day necessarily employed.....	6 00
21. Arrest of each individual upon a warrant, (<i>to be paid out of the County funds, or by the party, as the case may be</i>)	3 00
22. Serving subpoena upon each person, (<i>to be paid out of the County funds or by the party, as the case may be</i>)	1 00
23. Travelling in going to execute warrant or serve subpoena, or in returning with a prisoner in the case of the sheriffs of Algoma, Bruce, Carleton, Essex, Grey, Hastings, Huron, Kent, Lambton, Leeds and Grenville, Lincoln, Middlesex, North- umberland and Durham, Oxford, Perth, Simcoe, Thunder Bay, Toronto, Victoria, Welland, Wellington, Wentworth and York, <i>per mile actually travelled</i>	10
Other sheriffs	13
<i>(To be paid out of the County funds, or by the party, as the case may be; where the service has not been effected, the Board of Audit is to be satisfied that due diligence has been used.)</i>	
24. Conveying prisoners on attachment, Judge's Order or <i>Habeas Corpus</i> to another county, exclusive of disbursements, where no charge allowed by law, for each day necessarily employed, <i>(to be paid out of the County funds, or by the party, as the case may be)</i>	6 00
25. Making return upon attachment or writ of <i>Habeas Corpus</i> , (<i>to be paid out of the County funds, or by the party, as the case may be</i>).....	2 00
26. Levying fines or issues on recognizances estreated, or other process (<i>to be levied under section 5 of Rev. Stat. Cap. 101</i>) .....\$5 per \$100 on the first \$400 of the sum levied, <i>exclusive of mileage at 10 cents per mile, and on all sums above \$400 the same allowance as on executions in civil proceedings.</i>	
27. Carrying into execution the sentence of the Court in capital cases..... <i>All such sums as are unavoidably disbursed, to be taxed by the Court or Judge who passed the sentence.</i>	
28. Attending and superintending the execution in such cases	20 00
29. Summoning each Constable to attend the Assizes or General Sessions, exclusive of mileage at 10 cents a mile	50

30. Keeping a Record of Jurors who have served each Court. \$2 00
31. Disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the Penitentiary or Reformatory, to any other county or elsewhere, or for other purposes in the discharge of the duties of his office (where not provided for by law, nor hereinbefore specifically provided); to be rendered in account in detail, with proper vouchers, to the satisfaction of the Board of Audit, and to be by the Board allowed.
32. Disbursements actually and necessarily incurred while in attendance upon a Judge of the High Court when holding a sittings of the High Court, or incurred in obedience to his order, the amount to be paid by the Treasurer of the County upon the order of the Sheriff.
33. Keeping a record of constables at the Assizes or Sessions, each. 2 00

For services in the County Judge's Criminal Court.

34. Notification to judge, in all for each prisoner. 1 00
35. Bringing up prisoner before judge, to elect as to mode of trial, including attendance at court, each person 2 00
36. Bringing up prisoner for arraignment on trial, and for sentence, including attendances at Court—in all for each prisoner, whether convicted or acquitted. 2 00
37. For serving subpoenas, arrest under warrant, travel to serve or execute a process, and conveying prisoner to Penitentiary or Reformatory—the like sum as is allowed for like services in other cases under this Act.

For services in connection with offenders sentenced, or liable to be removed to the Central Prison.

38. For making special return of prisoners sentenced to Central Prison, and of such prisoners eligible for removal to Central Prison, as the Inspector may direct (each prisoner). 1 00
(No more than \$5 to be allowed for any one return, and each return must cover all prisoners in gaol when the same is made.)
39. Certified copy of sentence 50
40. Taking prisoner to railway station, to be delivered to Central Prison Bailiff, in addition to other necessary expenses incurred in such duty 1 00

For other services.

41. Return and services in respect of inquisition on body of a prisoner dying in gaol. 4 00
42. For general supervision over the gaols and prisoners therein, and the books kept in connection with the gaol, in addition to any other allowance, and for stationery and postage, per quarter. 25 00
43. For every prisoner discharged from gaol other than prisoners committed by warrant for trial at the Assizes or general Sessions 1 00
44. For services performed under 55-56 V. c. 29, s. 960 (Dom.), in each case disposed of under that section. 2 00

45. For each day's attendance at an adjournment of the County Judge's Criminal Court, in each case \$2 00
 Provided that the Sheriff shall not be allowed more than \$4 in respect of the same day's service.

R. S. O. 1887, c. 83, Sched. "Sheriffs;" 52 V. c. 6, s. 1;
 56 V. c. 5, ss. 16, 19; 59 V. c. 18, Sched. (43.)

CORONERS.

- | | |
|---|------|
| 1. Precept to summon Jury | 50 |
| 2. Empanelling a Jury | 1 00 |
| 3. Summons for witnesses each | 25 |
| 4. Information or examination of each witness | 25 |
| 5. Taking every recognizance..... | 50 |
| 6. Necessary travel to take an inquest, per mile..... | 20 |
| 7. Taking inquisition and making return..... | 4 00 |
| 8. Every warrant | 1 00 |
- R. S. O. 1887, c. 83, Sched. "Coroners."

CLERKS OF THE PEACE.

- | | |
|--|-------|
| 1. Drawing precepts to summon the Grand and Petit Juries; attending Justices to sign same; and transmitting to the Sheriff..... | 6 00 |
| 2. Attending each General Session for the first day..... | 6 00 |
| 3. For each additional day, not including time occupied by County Court | 4 00 |
| 4. Making up records of each General Sessions (when completed), including quarterly record of returns of convictions required by sec. 6, R. S. O. ch. 93 | 15 00 |
| 5. Notice of every appointment of a constable, under R. S. O. c. 99, or other officer appointed by the Justices in Session, or by the Chairman..... | 25 |
| 6. Drawing every special order of the Court of General Sessions necessary to be communicated to any party, and entering it on record | 1 00 |
| 7. Notice of any order made by the General Sessions, and letter transmitting same, when required to be notified to any person or party..... | 50 |
| 8. Copying orders of the Court, and causing the same to be published where it is requisite; for each order, exclusive of the expense of publication, per folio | 10 |
| 9. For issuing subpoena..... | 75 |
| 10. For every subpoena ticket, or copy of subpoena (when necessary and when not made out or charged for by the County Crown Attorney) | 25 |
| 11. For issuing Bench warrant | 1 00 |
| 12. For drawing out and taking every recognizance of the peace, or for good behavior if the person to be bound is in indigent circumstances | 1 00 |
| 13. For drawing out and taking every recognizance to appear, whether of a prosecutor, prisoner, or defendant, witness or other person..... | 50 |

14. For calling parties on their recognizance and recording their non-appearance, for each person called	\$0 25
15. For discharging a recognizance	50
16. Drawing order of the Sessions or Chairman to estreat and put in process (on the whole list)	1 00
17. Entering any order of the Sessions, or of the Chairman who presided at the Sessions, to remit any estreat, and recording an entry of the same	50
18. Preparing list each session ; specifying names of persons making default under R. S. O. ch. 106, sec. 7.	50
19. Entering and extracting upon a roll, in duplicate, the fines, issues, amerciaments, and forfeited recognizances recorded in each session, making oath to the same, and transmitting to the sheriff	2 00
20. Making out and delivering to the sheriff the writ of <i>feri facias</i> and <i>capias</i> thereon	75
21. Making out and certifying copy of roll and return of the sheriff, and transmitting it to the Provincial Treasurer	1 00
22. Copies of depositions or examinations furnished to prisoners accused of felony, or their counsel, per folio of 100 words (when required by the accused, or his counsel, and ordered by the Court. This fee not to be charged when copies are furnished by the Crown Attorney)	10
23. Receiving and filing each indictment, when bill returned by the Grand Jury	50
24. Receiving and filing each presentment of the Grand Jury....	50
25. For a copy of presentment of the Grand Jury, forwarded by order of the Court of General Sessions to the Government, or to the Inspector of Prisons, or to County Council, per folio	10
26. Arraigning each prisoner, or defendant indicted	75
27. Recording plea, or receiving and filing demurrer	50
28. Empanelling and swearing the Grand Jury	1 00
29. Empanelling and swearing the Petit Jury in every case	75
30. Swearing each witness to go before, or sworn before, the Grand Jury	20
31. Charging the Jury with prisoner or defendant upon each indictment	1 00
32. For filing each exhibit, list, return, or other paper connected with the proceedings in the Court of General Sessions where no charge therefor is specially provided	10
33. Swearing each witness upon any trial or proceeding before the Court	20
34. Receiving and recording verdict of Petit Jury	50
35. Recording each judgment or sentence of the Court upon a verdict or confession	1 00
36. Making out and delivering to the Sheriff a calendar of the sentences at each Court	1 50
37. Making out a certified copy or abstract of sentences sent with the prisoners to the Penitentiary, Central Prison, or Reformatory after each session	1 00
38. Making up record of conviction or acquittal in any case where it may be necessary	1 00

39. Discharging prisoner by proclamation, each	\$0 50
40. Every allowance of Certiorari, to be paid by the party applying except when he is in indigent circumstances	1 00
41. Furnishing to Sheriff and each of the Coroners revised lists of constables, when a revision has been made and when ordered to be done by the Justices in General or Adjourned Sessions, for each list.....	1 00
42. Reading Statute or public proclamation, when required to be done by law.....	25
43. Making every copy or extract of a record, or paper, or document of any kind, required to be made by law, or by the order of the Justices in Sessions, or by the order of the Government, in any of its departments, or for the information and use of the Government, when required, and when no charge is fixed by law, per folio.....	10
44. Causing public notice to be proclaimed in open Court of the General Sessions, of an intention to alter or rescind previous orders respecting the number and extent of any one or more of the Division Court limits, under section 15 of the Division Courts Act.....	50
45. Drawing out such orders of Sessions, for altering the limits of Division Courts, per folio.....	20
46. Making out and transmitting copies of such orders to the Government, per folio	10
47. Making out and transmitting copies of such orders to each Clerk of a Division Court affected by such alterations, per folio	10
48. Making up book of orders of Sessions, declaring the limits of Division Courts	1 50
49. Making out and transmitting copies (with letter) to the Clerk of each Division Court	1 00
50. Making out and transmitting a copy thereof to the Government	1 00
51. For every necessary certificate, per folio.....	20
52. Making out and transmitting to the Provincial Treasurer, a return or schedule of all convictions which have taken place before the Court, each list including letter.....	1 00
53. Causing notice to be published of any special or adjourned Sessions, when directed by the Chairman, or other two Justices, so to do, besides amount paid for publication	1 00
54. Sending notice of any such Session to the Justices individually, when it is directed by the Chairman, or other two Justices, for each notice	20
55. Attending each adjourned or Special Sessions, and making up record of same, when completed	5 00
56. Making out warrant of distress or commitment, in any case where no fee is specially assigned therefor by any statute, or by this tariff.....	1 00
57. Swearing constable in open Court.....	20
58. Receiving, filing, and recording each oath of qualification of a Justice of the Peace	25
59. Every letter written by direction of the Justices in Sessions to the Government, or Justices, or coroners, or constables, or others upon matters connected with the business of the Court or the administration of Justice	25

60. All necessary outlays for postage and publishing to be added in all cases.

The above Tariff of Fees and Costs shall also be applicable in all proceedings where costs are chargeable or ordered to be paid by private parties, together with the following additional items :

61. Certifying the result of each appeal heard and determined by the Court to the convicting Justice or to any party requesting the same under any statute	\$0 50
62. For every single search	20
63. For every general search	50
64. Receiving and filing notices of Appeal and the Appeal from any judgment or conviction by one or more Justices where an appeal is given by law to the Court of General Sessions of the Peace.....	50
65. When the appeal called,—on reading the conviction, notice of appeal and recognizance	50
66. For all other services upon the trial of such appeal case, when tried by a Jury, the same charges as hereinbefore specified in other trials.	
67. Issuing process to enforce the order of the Court in appeal case when required by law	1 00
68. For each copy of Schedule of the times and places of holding the Division Courts with the order of Sessions and forwarding the same to each Division Court Clerk.....	50
69. Drawing bill of costs, including taxation and filing the same where necessary to be made and filed, as in cases of assault, nuisances or the like, and in appeals, (<i>to be paid by the party</i>).	50
70. For every certificate required of proof of a deed, (<i>to be paid by the party applying for the same</i>).....	1 00
71. Receiving and filing affidavit of bastardy, (<i>see Rev. Stat. c. 169, s. 3</i>) (<i>to be paid by the party producing it</i>)	25
72. Receiving and filing each tender for any public work, or supply, or printing, or other service	25
73. Making out a list of the several tenders on each occasion, as they are opened, specifying the names, prices, and other particulars, and filing the same, when required to be done by the Justices	50
74. Drawing bonds or agreements for the delivery of articles, or for doing the work for the gaol or other county purposes, and attending execution, when required by the Justices.....	1 00
75. Receiving and filing accounts and demands, preferred against the county, numbering them, and submitting them for audit, and making out the cheques.....	4 00
76. Making out and delivering lists of orders on the treasurer, made at each audit.....	2 00
77. For every report or return required by statute, or by the Government, where no remuneration has been provided by this table or by statute	1 00
78. Making out and transmitting a return to the Government of Justices and Coroners who have taken the oaths, when required to be done, for each return.....	1 00
79. Swearing each party to an affidavit, where no charge is elsewhere provided for it. (<i>to be paid out of the county funds, or by the party for whom the affidavit is sworn, according to the nature of the case</i>).....	20

80. Drawing certificate of approval by the Justices in Sessions, of sureties tendered by the sheriff, (<i>to be paid by sheriff</i>).....	50
81. Administering oaths to any public officer, when authorized so to do, (<i>to be paid by the officer</i>).....	25
82. For distributing the Statutes to the Justices and county officers, or others, when directed by Statute or the Government so to do, and taking receipts therefor; from each Justice or officer.	10
83. For accounting to the County Member for the copies of Statutes not called for by the Justices and county officers, and delivering the same to him, wherever such duty is required by Statute, or by the Government and no other fee allowed ..	\$1 00
84. For receiving and filing Voters' Lists for an entire municipality under Rev. Stat. c. 7, ss. 20 and 21, each list.....	25
85. For filing each list, return, or other paper, where no charge is specially provided for, except accounts and claims against the county, and papers connected with matters to be charged against private individuals, (<i>to be paid out of the county funds, or by the party for whom the service is rendered, according to the nature of the case</i>)	08

(a) When the offices of the Clerk of the Peace and County Crown Attorney are held by the same individual and there is a similar or the same fee provided for the same service to each officer, only one fee is to be charged or allowed.

(b) Items numbered from 1 to 67 of the foregoing tariff shall only apply to proceedings in the Courts of General Sessions of the Peace, and shall not supersede any existing Tariff of Fees for services rendered by the Clerk of the Peace out of Sessions.

For services in County Judge's Criminal Court.

86. Attending and service in Court, and making all necessary entries; for each prisoner brought before the Judge, and not consenting to be tried—in all	50
87. For attendance in Court, and services rendered at trial, making necessary record of proceedings and all necessary entries, including calendar of conviction; for each prisoner.....	2 00
88. Preparing Judge's warrant to bring up the body of prisoner, and delivering the same to sheriff—for each prisoner	50
89. Issuing writ of summons to witness when necessary.....	40
90. Copy of Summons, each	20
91. Warrant of remand, when issued and delivered to Sheriff.....	50
92. For warrant to arrest, taking and estreating recognizances and proceedings to enforce same....(<i>the same fees as allowed for like services at the General Sessions of the Peace.</i>)	

R. S. O. 1887, c. 83, Sched. "Clerks of the Peace;" 58 V. c. 18, s. 1; 59 V. c. 39, s. 25 (6). Tariff approved by the Judges, 5th January, 1887.

CONSTABLES.

1. Arrest of each individual upon a warrant	\$1 50
2. Serving summons or subpoena	25
3. Mileage to serve summons, subpoena or warrant	13
4. Mileage when service cannot be effected, upon proof of due diligence	13
5. Mileage taking prisoner to gaol, exclusive of disbursements necessarily expended in his conveyance.....	10
6. Returning with prisoner after arrest—conveyance or railway fare for prisoner. Only reasonable disbursements to be allowed, and public conveyance to be used when practicable.	
7. Attending Justices on summary trials, or on examination of prisoners charged with crime, for each day necessarily employed in one or more cases.....	1 50
8. Attending Assizes or Sessions, each day.....	1 50
9. Mileage travelling to attend Assizes, Sessions, or before Justices, (<i>when public conveyance can be taken, only reasonable disbursements to be allowed</i>)	10
10. Summoning jury for coroner's inquest, including attending at inquest, and all services in respect thereof, if held on same day as jury summoned.....	3 00
11. Attending each adjournment thereof	1 50
12. Serving summons or subpoena to attend before coroner, (subject to No. 10).....	25
13. Mileage serving same.....	13
14. Exhuming body under coroner's warrant.....	4 00
15. Reburying same.....	2 00
16. Serving distress warrant, and returning same.....	1 50
17. Advertising under distress warrant.....	1 00
18. Travelling to make distress, or to search for goods to make distress, when no goods are found.....	13
19. Appraisements, whether by one appraiser or more,..... <i>two cents in the dollar on the value of the goods.</i>	
20. Catalogue, sale and commission, and delivery of goods	
..... <i>five cents in the dollar on the net produce of the goods.</i>	
21. Executing search warrant.....	1 50
22. Serving notices on constables, when personally served.....	50
59 V. c. 26, Sched.	

CRIERS.

1. Making proclamation for opening or adjourning the Court of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery and General Sessions.....	20
2. Making every other proclamation.....	20

3. Calling and swearing grand jury.....	50
4. Calling and swearing every petit jury.....	50
5. Calling and swearing every witness or constable.....	10
6. Attending Assizes and General Sessions, <i>per diem</i>	1 00
R. S. O. 1887, c. 83, Sched. "Criers."	

COUNTY CROWN ATTORNEY AT GENERAL SESSIONS.

In all criminal cases tried at the Courts of General Sessions of the Peace, in which no costs have been ordered to be paid, or, if ordered to be paid, cannot be made of the defendant, the County Crown Attorney shall be entitled to receive for the services rendered by him in each such case, the following fees to be paid upon the certificate of the Chairman, and to be taken in lieu of, and not in addition to, the fees which have been heretofore payable for services rendered in such cases, viz.:

1. For receiving and examining all informations, depositions, documents, and papers connected with a criminal charge \$2 00
2. For preparing draft and engrossed copy of every indictment, or charge..... 2 00
3. For all business (except items 1 and 2 *supra*, and the following) in conducting the prosecution to judgment, as well before as after trial 10 00
4. For every copy of subpoena 20
5. For every other service not specified above, and for reports on cases of unusual and important character, a *quantum meruit* to be determined by the Attorney-General, on a consideration of the particular circumstances.....

(a).—Where a number of charges are pending against the same person, and a conviction has been obtained on one or more indictments, fees, and costs on the further proceedings upon the other charges, are not to be made or allowed on taxation, unless in cases where the Chairman would, in the event of additional convictions, impose a heavier sentence, or unless there are special circumstances, which, in the opinion of the Chairman, render it expedient that the other cases, or some of them, should be proceeded with and tried.

(b).—In cases of indictment for the obstruction, or the non-repair of a highway or bridge, or of indictment for nuisance (where there is a *bona fide* dispute as to boundary, or title, or claim of right, and where no present public inconvenience is being suffered from what is complained of) the County Crown Attorney shall not be entitled to charge costs to the public, without the special sanction of the Attorney-General, but will collect his fees and costs from the parties only.

(c).—When the offices of County Crown Attorney and Clerk of the Peace are held by the same individual, and a similar, or the same fee is provided for the same service to each officer, only one fee is to be charged or allowed.

Tariff approved by the Judges, 5th January, 1887.

CHAPTER 102.

An Act regulating the Payment by Counties of certain Expenses of Criminal Justice.

FEES UNDER REV. STAT. c. 101, PAY-
ABLE BY COUNTIES IN THE FIRST
INSTANCE, EXCEPT WHERE FOR
SERVICES FOR THE PRIVATE BENE-
FIT OF INDIVIDUALS, s. 1.

COSTS OF PROSECUTIONS FOR FELONY,
ss. 2, 3.

BOARD OF AUDIT FOR AUDITING AC-
COUNTS AGAINST COUNTIES, ss.
4-13.

ORDER OF PAYMENT OF CLAIMS
AGAINST COUNTIES, s. 14.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

Fees payable
by Counties,
except fees for
services for
private benefit
of individuals.

1. All fees payable under chapter 101 of these Revised Statutes to the officers therein mentioned, on services in the nature of a civil remedy, for individuals at whose instance and for whose private benefit the same are performed, shall be paid by such individuals, and except as herein or otherwise provided by law, all other fees payable to said officers for services connected with the administration of justice or county purposes, shall be paid, in the first instance, out of the county funds; and the counties paying the fees shall be entitled to be reimbursed, out of the Consolidated Revenue Fund, the amount of such of said fees as are payable out of the said Fund under the provisions of *The Act respecting the Expenses of the Administration of Justice in Criminal matters*. R. S. O. 1887, c. 84, s. 1.

Rev. Stat.
c. 101.

In cases of
felony, costs to
be paid out of
the County
funds.

2. Where any person is prosecuted or tried for felony and convicted or acquitted, or otherwise discharged, the costs of the prosecution, when not otherwise provided by law, shall be paid out of the county funds. R. S. O. 1887, c. 84, s. 2.

In cases of
felony, fees
for services to
person
charged
to be paid
from the
County funds.

3. In case a person is charged with felony, every officer of the Court before which such person is tried, or any proceeding had with regard to the charge, and who renders any official services in the matter of the charge, or in the course of

the trial, to the person so charged with felony, shall be paid his lawful fees for all such services out of the county funds, in the same manner as other fees due and payable to them in respect of official services by them rendered to the Crown in the conduct of public prosecutions, and no such fees shall in any case be demanded of or be payable by the person charged with the felony. R. S. O. 1887, c. 84, s. 3.

4. Subject to the provisions of *The Act Respecting Criminal Justice Accounts payable by the Province*, all accounts and demands preferred against the county the approving and auditing whereof before the 19th day of December, 1868, belonged to the Quarter Sessions, shall be audited and approved by the board of audit, hereinafter mentioned, of the county. R. S. O. 1887, c. 84, s. 5.

Accounts against County to be audited by a Board of Audit.

Rev. Stat. c. 103.

5. Such accounts and demands shall be delivered to the Clerk of the Peace of the county on or before the first days of the months of January, April, July and October, in every year. R. S. O. 1887, c. 84, s. 6.

Accounts to be sent to Clerk of Peace quarterly.

6. Such of the said accounts and demands as have been so delivered shall be audited by a board of audit, composed of the Judge, or Junior Judge, of the County Court, and two other persons, who shall be appointed annually for that purpose by the council of the county, not more than one of such persons being a member of the county council for the time being, and the accounts and demands shall be taken into consideration by the board of audit between the first and fifteenth days of the months of January, April, July and October, in each and every year, and disposed of as soon as practicable; and the board shall, at the completion of the audit, so to be made in the month of October, make a report to the council of any irregularity in the accounts presented to them, or of any claim that may be made contrary to law, or of any other matter which the auditors may consider ought to be brought under the notice of the council. R. S. O. 1887, c. 84, s. 7.

Accounts, how and when audited.

Report.

7. The Clerk of the Peace shall convene the board of audit on the direction of the Judge of the County Court, for the purpose of submitting to the board the accounts lodged with him and shall attend the audit, record the proceedings thereat and carry out the orders of the board in respect of the same, as formerly done by him at and after Session audits. R. S. O. 1887, c. 84, s. 8.

Duties of Clerk of the Peace at audit.

8. Where the accounts of constables preferred against the county for services performed in any local municipality in connection with the arrest and detention of vagrants are deemed unreasonable, or where the arrests appear to have

Discretion of board in case of arrest of vagrants.

been unnecessary or appear to have been made for the purpose of making fees, the board of audit may refuse to certify the accounts for such fees, in whole or in part, or may certify the facts and their opinion thereon to the county council which may by resolution refuse payment of such accounts in whole or in part. 60 V. c. 14, s. 25.

Orders or cheques given to specify Act authorizing payment.

9. All orders or cheques of the board of audit, except for the payment of constables or services rendered during the sitting of the Court of General Sessions, shall name the Statute, if any, under which the expenditure is authorized. R. S. O. 1887, c. 84, s. 9.

Items disallowed by Provincial Treasurer may be deducted from next accounts.

10. The treasurer of the county shall furnish the board of audit with a copy of the items disallowed by the Provincial Treasurer in the criminal justice accounts of the previous quarter, and the board shall have power, in their discretion, to deduct the amounts so disallowed from the next, or any accounts of the same officers submitted for audit. R. S. O. 1887, c. 84, s. 10.

Payment of percentage on constable's account on recommendation of County Judge.

11. On the presentation of his account for services and disbursements duly verified, with the certificate of the Magistrate, in the form in the Schedule to chapter 103 of the Revised Statutes of Ontario, and a recommendation of the County Judge, naming the amount, a High or County Constable shall be entitled to be paid seventy-five per cent. of such account without waiting for a meeting of the Board of Audit to pass the same. If the Board of Audit afterwards finds that a constable has been overpaid for such services and disbursements, he shall refund the balance so overpaid, and if not so refunded it may be deducted from his next account. 59 V. c. 26, s. 13.

Board of Audit may allow sum in addition to tariff fees.

12. In proper cases the Board of Audit may, upon the recommendation, in writing, of the Magistrate and High Constable, allow a reasonable amount to a County Constable for his services, in addition to the fees provided by the tariff, appended to the Revised Statute, chapter 101. 59 V. c. 26, s. 14.

Doubtful items in accounts may be deferred.

13. The board shall also have power to direct the treasurer to defer payment of any account, or any item in any account, connected with criminal justice, payable out of the Consolidated Revenue Fund of the Province, of which they may have doubt either as to the liability of the Province or the correctness of the amount charged, until the decision of the Provincial Treasurer as to the correctness or allowance of the said account or item, has been notified to the county treasurer. R. S. O. 1887, c. 84, s. 11.

County Treasurer's duty.

14. The treasurer of every county shall, without further authority, pay the amount of the fees which are payable out of

county funds, when duly allowed by the board of audit, in the following order, and in preference to all other charges unless otherwise provided by law—that is to say, after the expenses of levying and collecting and managing the rates and taxes imposed in the county are paid ;

1. All sums of money payable to the sheriff, coroner, gaoler, surgeon of the county gaol, or to any other officer or person, for the support, care or safe keeping of the prisoners in the county gaol, or for the repairing and maintaining of the court house or gaol ;

Order of pay-
ment of
accounts.

2. The accounts of public officers and officers of the Court of General Sessions ;

3. All sums of money payable for any other purpose whatever connected with the administration of justice within the county ;

4. All other sums of money allowed by the board of audit in the order in which the same were allowed. R. S. O. 1887, c. 84, s. 12.

CHAPTER 103.

An Act respecting Criminal Justice Accounts payable by the Province.

APPOINTMENT OF AUDITOR FOR	Constables' accounts to be certified,
COUNTY, s. 1.	s. 8.
Supersedes Board of Audit, ss. 2, 3.	Powers, s. 9.
Duties, ss. 4, 10.	TRANSMISSION OF ACCOUNTS TO CLERK
Delivery of accounts to, s. 5.	OF CRIMINAL JUSTICE ACCOUNTS,
Form of account, ss. 6, 7.	s. 11.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Auditors of accounts payable by Province.

1. The Lieutenant-Governor in Council may appoint the Local Registrar or Deputy Clerk of the Crown of the county, or some other public officer resident in the county town of the county to be the Auditor of those accounts relating to the administration of Justice in the county, for which the Province is liable. R. S. O. 1887, c. 85, s. 1.

Audit of certain items by County auditor dispensed with. Rev. Stat., cc. 102, 104.

2. Where such an appointment is made it shall not be requisite for the board of audit appointed under *The Act regulating the payment by Counties of certain Expenses of Criminal Justice*, to approve or audit any accounts in respect of items set out in the schedule appended to *The Act respecting the Expenses of the Administration of Justice in Criminal Matters*, under any of the following headings, namely;—“Sheriff,” “Coroner,” “Clerk of the Peace,” and “Crier”;

Nor in respect of the items under the heading of “Constables” where the accounts rendered under these headings are in respect of offences belonging to any of the following classes:

(a) Offences for which the parties charged had been committed or held to bail for trial at the Assizes or General Sessions.

(b) Offences for which the parties charged had been convicted before a Police or Stipendiary Magistrate, under Part LV. of *The Criminal Code, 1892*.

Nor in respect of fees to gaol surgeons under the heading “Other Matters” in the said schedule. R. S. O. 1887, c. 85, s. 2.

55-56 V. c. 29, (Dom.)

Audit by County auditors.

3. All other accounts in connection with the administration of civil or criminal justice which, under chapters 101 and 102 of these Revised Statutes or otherwise, are paid out of the

county funds, shall continue to be audited by the county board of auditors of the county. R. S. O. 1887, c. 85, s. 3.

4. When such an appointment as aforesaid is made, all services heretofore performed under the regulations provided for by section 2 of *The Act respecting the Expenses of the Administration of Justice in Criminal Matters*, in respect of the approving and auditing of accounts relating to the administration of justice, and in respect of the auditing of accounts of the County Crown Attorney, for which the Province is liable, shall thereafter be performed by the auditor so appointed as aforesaid; the auditor so appointed shall, so far as the auditing of the above-mentioned accounts is concerned, be substituted for the board of audit, wherever the said board is mentioned or referred to in the said chapter 102. R. S. O. 1887, c. 85, s. 4.

Accounts which are to be audited by auditor appointed under s. 2 of Rev. Stat. c. 104.

5. All accounts and demands to be audited by the said auditor shall be delivered in duplicate to the said auditor, on or before the tenth day of every month and shall include all demands of the person rendering the same up to the last day of the preceding month, so that one month's account shall not run into another. R. S. O. 1887, c. 85, s. 5.

When accounts to be delivered to auditor.

6. Each account shall be rendered in duplicate in the form shewn in the Schedule hereto, or in such other form as the Lieutenant-Governor in Council may from time to time prescribe, and shall be verified by the oath of the party (sworn before a justice of the peace, which oath shall be administered without charge), that the amount is correct in every particular, and whenever mileage is charged the places from and to which the mileage is reckoned, and also the number of miles shall be mentioned; in no case shall more than the actual number of miles travelled be allowed, nor where the service is by a sheriff's officer shall a greater number of miles be allowed than the distance from the court house to the place of service, and the separate items in such account shall be numbered in order. R. S. O. 1887, c. 85, s. 6.

Form of account.

7. Forms of account, in accordance with the Schedule hereto or such other forms as may be prescribed by the Lieutenant-Governor in Council, shall be provided by the county, and shall be furnished by the county treasurer to the officers requiring them on their applying therefor. R. S. O. 1887, c. 85, s. 8.

Forms to be provided by county.

8. Every account of a constable shall be certified by the justice or coroner under whose direction the constable acted. R. S. O. 1887, c. 85, s. 7.

Constable's accounts to be certified.

9. The auditor shall have power to call upon the claimant for any information that may be required in connection with his accounts, and for a reference to the authority for the charges made, and may administer an oath to the claimant or to any

Powers of auditor.

other person giving evidence in respect of the claim, but shall make no charge therefor. R. S. O. 1887, c. 85, s. 9.

Duties of auditor.

10. It shall be the duty of the said auditor to audit each account on receipt thereof, or as soon thereafter as he reasonably can, and if the claimant so desires in his presence; the auditor shall note with red ink in the proper column of the account the item or items disallowed or deferred for further inquiry, distinguishing those disallowed from those deferred, and he shall forthwith, after audit, transmit one of the duplicates of each account to the county treasurer, having first indorsed on such account a certificate shewing the amount found to be due to the claimant. R. S. O. 1887, c. 85, s. 10.

Transmission
of accounts to
Clerk of Cri-
minal Justice
accounts.

11. The treasurer of the county shall pay the accounts so approved and take receipts therefor, and shall transmit the receipted accounts, with a proper statement of account to the clerk of criminal justice accounts at Toronto to be kept on file in the proper department, and warrants shall be issued for the amount of such payments to the county treasurer quarterly as hitherto. R. S. O. 1887, c. 85, s. 11, part.

12. The Treasurer of the Province may disallow any sums which have been improperly allowed by the auditor and (unless the same are disallowed because payable by the County and not the Province) in case the same are paid meanwhile by the county treasurer, such county treasurer shall deduct the same from any moneys which may within a year next thereafter be payable by the county to the persons to whom the payment was erroneously made ; and if no moneys shall be so payable, or not sufficient, the Province shall make good to the county the amount or the deficiency, as the case may be. R. S. O. 1887, c. 85, s. 11, part.

SCHEDULE.

(Referred to in Sections 6 and 7.)

Province of Ontario.

Dr. to A. B.,

Constable of the County of

Date of Service.	Number of Item.	Nature of Service.	Amount claimed by official.	Deferred for further inquiry.	Dis-allowed.	Amount payable by the govern-ment.

I hereby certify that the above services were duly performed by
Constable under my directions, and that the above named
prisoner was committed by me for trial at the assizes (*or as the case may
be*).

F. G.,
Justice of the Peace for the above County.

(*Affidavit on back.*)

County of { I of make oath and
 } in the county of
To Wit ; } say :—

- (1) That the within account of services performed by me is true in every particular.
- (2) That I have not been paid any portion of the charges, nor has any other person to my knowledge received payment for me or on my behalf, nor has any other person to my knowledge rendered a similar account for the same services.
- (3) That to perform the said services I necessarily travelled the distances in the account mentioned.*

Sworn before me at in the County of
this day of A. D. 18 .

[*Where special explanations are given, add : (4) “and that the explanatory statements written upon the said account are true in every particular.”]

Endorsement on back of Account.			Constable.
	January, 18 .	County of Grey.	Account of A.B.,

CHAPTER 104.

An Act respecting the Expenses of the Administration of Justice in Criminal Matters.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Payment of expenses of criminal justice.

1. Such of the expenses of the Administration of Criminal Justice in this Province as are mentioned in the Schedule to this Act shall be paid out of the Consolidated Revenue Fund of the Province. 'R. S. O. 1887, c. 86, s. 1.

Subject to Rev. Stat. c. 103 accounts to be audited in such manner as the Lieut.-Governor in Council appoints.

2. Subject to the provisions of *The Act respecting Criminal Justice Accounts payable by the Province*, all accounts of or relative to the said expenses shall be examined, audited, vouched, and approved under such regulations as the Lieutenant-Governor in Council, from time to time directs and appoints. R. S. O. 1887, c. 86, s. 2.

SCHEDULE.

SHERIFFS.

1. Attending the Assizes. (*See Tariff in Schedule to Cap. 101, Sheriffs, item 1.*)
2. Attending the General Sessions. (*Tariff, item 2.*)
3. Summoning each Grand Jury for the Assizes or General Sessions. (*Tariff, item 3.*)
4. Summoning each Petit Jury for the Assizes or General Sessions. (*Tariff, item 4.*)
5. For every Prisoner discharged from Gaol, having been committed by Warrant for trial at the Assizes or General Sessions. (*Tariff, item 5.*)
6. For the discharge from Gaol of every Prisoner convicted by a Police or Stipendiary Magistrate under Part LV. of *The Criminal Code, 1892.* (*Tariff, item 6.*)
7. Bringing up each Prisoner for arraignment, trial and sentence, whether convicted or acquitted. (*Tariff, item 7.*)
8. For arraignment, trial and sentence in all for each Prisoner, whether convicted or acquitted, who has been out on bail.—(*Tariff, item 8.*)
9. Drawing Calendar of Prisoners for trial at the Assizes, including copies. (*Tariff, item 9.*)
10. Drawing Calendar of Prisoners for trial at the General Sessions, including copies. (*Tariff, item 18.*)

11. Advertising the holding of the Assizes or General Sessions. (*Tariff, items 10 & 11.*)

12. Every Annual or General Return, required by law, or by the Government, respecting the Gaol or the Prisoners therein. (*Tariff, item 12.*)

13. Every other Return made to the Government or the Legislature or to the Sessions, required by statute or by order of the Court. (*Tariff, items 13, 14, & 15.*)

14. Every Return to the Inspector of Legal Offices—(*Tariff, item 17.*)

15. Returning Precepts to the Assizes or General Sessions. (*Tariff, item 19.*)

16. Conveying Prisoners to the Penitentiary or Reformatory, or to another County, and disbursements. (*Tariff, item 20.*)

17. Arrest of each individual upon a Warrant (*if payable by the Crown*) (*Tariff, item 21.*)

18. Serving Subpœna upon each person, (*if payable by the Crown*) (*Tariff, item 22.*)

19. Travelling in going to execute Warrant or serve Subpœna, and in returning with Prisoner, (*if payable by the Crown*)—(*Tariff, item 23.*)

20. Conveying Prisoners on Attachment, Judge's order or *Habeas Corpus*, to another County, and disbursements, (*if payable by the Crown*)—(*Tariff, item 24.*)

21. Making return upon Attachment or Writ of *Habeas Corpus*, (*if payable by the Crown*)—(*Tariff, item 25.*)

22. Levying Fines or Issues on Recognizances estreated, and mileage—(*Tariff, item 26.*)

23. Disbursements in carrying into execution the sentence of the Court in capital cases—(*Tariff, item 27.*)

24. Attending and superintending the Execution in such cases—(*Tariff, item 28.*)

25. Summoning each Constable to attend the Assizes or General Sessions—(*Tariff, item 29.*)

26. Keeping a Record of Jurors who have served at each Court—(*Tariff, item 30.*)

27. All disbursements actually and necessarily made in guarding prisoners, or in their conveyance to the Penitentiary or Reformatory, or to any other County or District or elsewhere, or for other purposes in the discharge of the duties of his office (when not otherwise provided for), to be allowed by the Board of Audit—(*Tariff, item 31.*)

For services in the County Judge's Criminal Court.

28. Notification to Judge—(*Tariff, item 34.*)

29. Bringing up prisoners before Judge to elect as to mode of trial, including attendance at Court. (*Tariff, item 35.*)

30. Bringing up prisoner for arraignment on trial and for sentence including attendances at Court—(*Tariff, item 36.*)

31. Serving subpœnas, arrest under warrant, travel to serve or execute process, and conveying prisoners to Penitentiary or Reformatory, (*where payable by the Crown*)—(*Tariff, item 37.*)

For services in connection with offenders sentenced, or liable to be removed to the Central Prison.

32. Making special return of prisoners sentenced to Central Prison, and of such persons eligible for removal to Central Prison, as the Inspector may direct—(*Tariff, item 38.*)

33. Certified copy of sentence—(*Tariff, item 39.*)

34. Taking prisoner to railway station, to be delivered to Central Prison Bailiff, in addition to other necessary expenses incurred in such duty—(*Tariff, item 40.*)

35. For general supervision over the gaol and prisoners therein, and the books kept in connection with the gaol, in addition to any other allowance, and for stationery and postage, per quarter. (*Tariff, item 42.*)

36. For every prisoner discharged from gaol other than prisoners committed by warrant for trial at the Assizes or General Sessions—(*Tariff, item 43.*)

37. For services performed under 55-56 V. c. 29, s. 960 (Dom.)—(*Tariff, item 44.*)

38. For each day's attendance at an adjournment of the County Judge's Criminal Court.—(*Tariff, item 45.*)

R. S. O. 1887, c. 86, Sched. "Sheriff"; 56 V. c. 5, s. 19.

CORONERS.

1. Precept to summon Jury—(*Tariff, Coroners item 1.*)

2. Empanelling a Jury—(*Tariff, item 2.*)

3. Summons for Witness—(*Tariff, item 3.*)

4. Information or Examination of each Witness—(*Tariff, item 4.*)

5. Taking every Recognizance—(*Tariff, item 5.*)

6. Necessary travel to take an Inquest—(*Tariff, item 6.*)

7. Taking Inquisition and making Return—(*Tariff, item 7.*)

8. Every Warrant—(*Tariff, item 8.*)

(R. S. O. 1887, c. 86, Sched. "Coroner.")

CLERKS OF THE PEACE.

1. Drawing precept to summon the Grand and Petit Jury, attending Justices to sign same and transmitting to the Sheriff—(*See Tariff in the Schedule to Cap. 101, Clerks of the Peace, item 1.*)

2. Attending each General Sessions—(*Tariff, items 2 and 3.*)

3. Making up Record of each General Sessions—(*Tariff, item 4.*)

4. Notice of every appointment of a Constable under Rev. Stat., Cap. 99, ss. 1 and 4, or other officer appointed by the Justices in Session, and notice of any order made by the General Sessions when required to be notified to any person or party—(*Tariff, items 5 and 7.*)

5. Issuing Subpoena, (*if payable by the Crown*)—(*Tariff, item 9.*)

6. Issuing Bench warrant—(*Tariff, item 11.*)

7. Every Recognizance of the Peace for good behaviour—(*Tariff, item 12.*)
8. Drawing out and taking each Recognizance to appear, either of prosecutor, defendant or witness, (*if payable by the Crown*)—(*Tariff, item 13.*)
9. Calling parties on their Recognizance and recording their non-appearance, (*if payable by the Crown*)—(*Tariff, item 14.*)
10. Drawing Order of the Judge to estreat and put in process—(*Tariff, item 16.*)
11. Entering any Order of Sessions or of the County Judge to remit an estreat and recording an entry of the same, (*if payable by the Crown*)—(*Tariff, item 17.*)
12. Making out lists of forfeited Recognizances and Fines to submit to the presiding Judge after each Session in order that they may be estreated.—(*Tariff, item 18.*)
13. Entering and extracting upon a Roll, in duplicate, the Fines, Issues, Amerciaments and forfeited Recognizances recorded in each Session, making oath to the same, and transmitting it to the Sheriff—(*Tariff, item 19.*)
14. Making out and delivering to the Sheriff the Writ of *fieri facias* and *capias* thereon—(*Tariff, item 20.*)
15. Making out and certifying copy of Roll and Return of Sheriff, and transmitting it to Provincial Treasurer—(*Tariff, item 21.*)
16. Copies of Depositions or Examinations furnished to Prisoners, Defendants, or their Counsel, when required by the party or his Counsel, (*if payable by the Crown*)—(*Tariff, item 22.*)
17. Receiving and filing each Presentment of the Grand Jury—(*Tariff, item 24.*)
18. Arraigning each Prisoner or Defendant indicted, and recording Plea (*if payable by the Crown*)—(*Tariff, item 26 and 27.*)
19. Empanelling and swearing the Jury in every case, whether criminal or otherwise, where by law a trial by Jury is to be had at the General Sessions, (*if payable by the Crown*)—(*Tariff, item 29.*)
20. Swearing each Witness upon any trial by Jury, or to go before the Grand Jury, (*if payable by the Crown*)—(*Tariff, item 30 and 33.*)
21. Charging the Jury with the Prisoner or Defendant, upon each indictment, (*if payable by the Crown*)—(*Tariff, item 31.*)
22. Filing each Exhibit upon a trial, (*if payable by the Crown*)—(*Tariff, item 32.*)
23. Receiving and Recording each verdict of a Petit Jury, in any case of trial by Jury, (*if payable by the Crown*)—(*Tariff, item 34.*)
24. Recording each Judgment or Sentence of the Court, upon a verdict or confession, (*if payable by the Crown*)—(*Tariff, item 35.*)
25. Making out and delivering to the Sheriff a Calendar of the Sentences at each Court—(*Tariff, item 36.*)
26. Certified Copy of Sentences sent with the Prisoners to the Penitentiary, or Reformatory after each Session—(*Tariff, item 37.*)
27. Making up Record of Conviction or Acquittal, in any case where necessary, (*if payable by the Crown*)—(*Tariff, item 38.*)
28. Discharging any Prisoner by proclamation—(*Tariff, item 39.*)

29. Furnishing to Sheriff and Coroners revised lists of constables, whenever ordered to be done by the Justices in General Sessions—(*Tariff, item 41.*)

30. Drawing Orders of Session for altering the limits of Division Courts—(*Tariff, item 45.*)

31. Making out and transmitting copies of such Orders to the Government—(*Tariff, item 46.*)

32. Making out and transmitting copies of such Orders to each Division Court affected by the alteration—(*Tariff, item 47.*)

33. Making up Books of Orders of Sessions declaring the limits of the Division Courts, and entering the times and places of holding the Courts—(*Tariff, item 48.*)

34. Making out and transmitting copies (with letter) to the Clerk of each Division Court, of the Divisions made by the General Sessions—(*Tariff, item 49.*)

35. Making out and transmitting a copy thereof to the Government—(*Tariff item 50.*)

36. For each Copy of Schedule of Division Courts, with the Order of Sessions for publication—(*Tariff, item 68.*)

37. Swearing each party to an Affidavit, when no charge is elsewhere provided for it, (*If payable by the Crown*)—(*Tariff, item 79.*)

For services in County Judges Criminal Court.

38. Attending and service in Court, and making all necessary entries for each prisoner brought before the Judge, and not consenting to be tried—(*Tariff, item 87.*)

39. For attendance in Court, and services rendered at trial, making necessary record of proceedings and all necessary entries, including calendar of conviction for each prisoner—(*Tariff, item 88.*)

40. Preparing Judge's warrant to bring up the body of prisoner, and delivering same to Sheriff—(*Tariff, item 89.*)

41. Issuing Writ of Summons to witness—(*Tariff, item 90.*)

42. Copy of Summons—(*Tariff, item 91.*)

43. Warrant of remand, when issued and delivered to Sheriff—(*Tariff, item 92.*)

44. For warrant to arrest, taking and estreating recognizances and proceedings to enforce same—(*Tariff, item 93.*)

R. S. O. 1887, c. 86, Sched. "Clerk of the Peace,"

CONSTABLES.

1. Arrest of each individual upon a Warrant, (*if payable by the Crown*)—(*Tariff, Constables item 1.*)

2. Serving Summons or Subpoena, (*if payable by the Crown*)—(*Tariff, item 2.*)

3. Mileage, (*if payable by the Crown*)—(*Tariff, item 3.*)

4. Mileage in going to serve Summons or Warrant when the service has not been effected; the Board of Audit being satisfied that due diligence was used, (*if payable by the Crown*)—(*Tariff, item 4.*)

5. Attending Assizes or Sessions—(*Tariff, item 8.*)

6. Mileage travelling to attend Assizes, Sessions or before Justices—*(Tariff, item 9.)*

7. Attending any Justice on summary trials or on the examination of Prisoners charged with any crime—*(Tariff, item 7.)*

8. Taking Prisoners to Gaol, and disbursements necessarily expended in their conveyance—*(Tariff, item 5.)*

9. Returning with Prisoner after arrest, conveyance or railway fare for Prisoner. Only reasonable disbursements to be allowed, and public conveyance to be used when practicable—*(Tariff, item 6.)*

10. Summoning Jury for Inquest and services at same—*(Tariff, item 10.)*

11. Attending Inquest for each day other than the first—*(Tariff, item 11.)*

12. Serving Summons or Subpœna to attend before Coroner—*(Tariff, item 12.)*

13. Mileage serving same—*(Tariff, item 13.)*

14. Serving notice of appointment of Constables, when personally served—*(Tariff, item 22.)*

R. S. O. 1887, c. 86, Sched. "Constable"; 59 V. c. 26, s. 17.

CRIERS.

1. Making Proclamation for opening or adjourning the Courts of Assize and Nisi Prius, Oyer and Terminer and General Gaol Delivery, and General Sessions—*(Tariff, Criers, item 1.)*

2. Making every other Proclamation—*(Tariff, item 2.)*

3. Calling and Swearing Grand Jury—*(Tariff, item 3.)*

4. Calling and Swearing every Petit Jury—*(Tariff, item 4.)*

5. Calling and Swearing every Witness or Constable—*(Tariff, item 5.)*

6. Attending Assizes and General Sessions—*(Tariff, item 6.)*

R. S. O. 1887, c. 86, Sched. "Crier."

OTHER MATTERS.

1. The maintenance of Prisoners confined upon criminal charges—

The foregoing item shall extend to and include the maintenance of prisoners convicted by police magistrates, under Part LV. of *The Criminal Code, 1892*, for indictable offences, and confined upon such conviction in any common gaol within the Province.

2. A proportion of the Salary of the Gaoler of each County Gaol, and of the payment of Turnkeys—

3. Medicines, Fuel and other similar necessities for the Gaol, and the Prisoners confined on criminal charges—

4. Disbursements in transporting Prisoners to the Penitentiary, or Reformatory and for carrying other sentences of the Courts into effect—

5. Fee to Gaol Surgeon for the examination of each prisoner eligible for removal or sentenced to Central Prison.

6. Together with all other charges relating to Criminal Justice payable to the foregoing Officers specially authorized by any Act of the Legislature, and immediately before the 9th day of June, 1846, payable out of the County funds.

R. S. O. 1887, c. 86, Sched. "Other Matters."

CHAPTER 105.

An Act to provide for the Payment of Witnesses for the Crown.

INTERPRETATION, s. 1.
 WITNESSES IN CASES ABOVE DEGREE
 OF MISDEMEANOUR, s. 2.
 CASES IN WHICH JUDGE MAY ORDER
 CROWN WITNESSES TO BE PAID,
 ss. 3, 4.
 CERTIFICATE REQUIRED TO OBTAIN
 ORDER, s. 5.
 FORM OF ORDER, ETC., ss. 6, 7.
 PAYMENT BY MUNICIPALITIES, ss. 8, 9.

REIMBURSEMENT BY GOVERNMENT IN
 PART, s. 10.
 WITNESSES FROM UNORGANIZED
 TRACTS, ss. 11, 12.
 WITNESS FEES WHERE RECOVERED
 FROM PARTIES, s. 13.
 FEE TO COUNTY ATTORNEY FOR
 CERTIFICATE, ss. 14, 15.
 MISCELLANEOUS, 16-18.

HER MAJESTY, by and with the advice and consent of the
 Legislative Assembly of the Province of Ontario, enacts
 as follows:—

Interpre-
 tation.

1. In the sections of this Act numbered from 3 to 7 inclusive,

“Court.”

“Court,” shall include the High Court, Courts of Oyer and Terminer, General Gaol Delivery, General Sessions of the Peace, County Judge’s Criminal Courts, and Courts for the summary trial of indictable offences under Part LV. of *The Criminal Code*, 1892. 60 V. c. 14, s. 26.

55-56 V. c. 29,
 Dom.

Fees to
 witnesses in
 cases above
 misde-
 meanour.

2. Except as provided in this Act or other Act in that behalf no witness in any case above the degree of misdemeanour shall be allowed anything for his attendance or travel. R. S. O. 1887, c. 87, s. 2.

In certain
 cases Crown
 witnesses may
 be compen-
 sated for
 attendance on
 prosecution or
 trial.

3. In case of a prosecution or trial for treason or felony, or any offence which is punishable by imprisonment only, or any offence for which whipping may be imposed, the Judge who holds the Court before which the prosecution or trial for the offence takes place, may grant, to any one who attends on recognizance or subpœna, or on the request of the Crown Counsel, to give evidence, or who gives evidence, on the part of the Crown, an order for payment of such sum of money as to the Judge seems reasonable and sufficient to compensate the witness for his costs and charges in attending as such witness; but such sum shall not exceed the amount then payable to the like witnesses in civil cases in the High Court. R. S. O. 1887, c. 87, s. 3; 60 V. c. 14, s. 27.

4. Where no bill of indictment has been preferred, or where the trial has not been proceeded with, the Court may make a similar order in favour of any person who, in the opinion of the Court, *bona fide* attended the Court in obedience to a recognition or subpoena. R. S. O. 1887, c. 87, s. 4.

Or where no indictment preferred or trial had

5.—(1) The order is not to be made except on a certificate by the Counsel, if any, for the Crown in the case, and by the County Crown Attorney (unless the County Crown Attorney is also the Counsel for the Crown, and certifies as such); and the certificate shall contain the particulars necessary in the affidavit required in civil cases to entitle a party to disbursements to witnesses and shall be to the like effect; but the Court may require further evidence, and shall have a discretion to grant or refuse the order.

Certificate whereon order to be made.

Discretion as to order.

(2) If the County Crown Attorney is absent, and for this or for some other reason some other person is acting for him, the certificate of the latter may be given instead of the certificate of the County Crown Attorney. R. S. O. 1887, c. 87, s. 5.

Certificate in absence of Crown Attorney.

6. The order may embrace any number of witnesses and any number of cases, or may be for one witness only. R. S. O. 1887, c. 87, s. 6.

Order may include several cases and witnesses.

7. Every order for payment shall be forthwith made out and delivered by the proper officer of the Court, and shall be directed to the treasurer of the county in which the offence was committed, or was supposed to have been committed; or if the offence was committed or was supposed to have been committed in a city, or in a town separated for municipal purposes from the county, the order shall be directed to the treasurer of the city or town. R. S. O. 1887, c. 87, s. 7.

Order, how made out and directed.

8. The treasurer to whom the order is directed shall forthwith, out of the funds of the municipality in his hands, pay to the witness, or each of the witnesses named, the amount ascertained by the certificate, on the witness signing a receipt therefor in person. R. S. O. 1887, c. 87, s. 8.

Payment by the treasurer of county where trial takes place.

9. In case the trial takes place in a county other than the county in which the offence was committed, the treasurer of the county in which the trial takes place, if applied to by the witnesses, shall forthwith pay the money in the first instance out of the funds of the municipality in his hands, and shall forthwith be reimbursed by the treasurer to whom the order is directed. R. S. O. 1887, c. 87, s. 9.

Payment by a treasurer on whom order is not made.

10. One-third of the amount paid to witnesses under this Act shall be repaid to the municipality out of the Consolidated Revenue Fund of the Province, except as is hereinafter mentioned. R. S. O. 1887, c. 87, s. 10.

One-third to be repaid to municipality.

11. In respect of witnesses under sections 3 and 4 of this Act, in cases sent from the unorganized districts for

Expenses of witnesses in cases sent from unorgan-

ized districts,
for trial in a
county.

trial in any county, the expenses of the witnesses shall be repaid in full out of the Consolidated Revenue Fund. R. S. O. 1887, c. 87, s. 11.

Witnesses in
cases tried in
unorganized
districts.

12. The like fees shall be paid out of the Consolidated Revenue Fund to witnesses attending sittings of any of the Courts mentioned in section 1 of this Act, held within any of the said unorganized districts, upon the prosecution or trial of any treason, felony or other offence mentioned in sections 3 and 4 of this Act, and shall be so paid under such regulations as the Lieutenant-Governor in Council may adopt. R. S. O. 1887, c. 87, s. 12.

On recovery
from prosecu-
tor or defend-
ant, the Muni-
cipality to be
repaid.

13. In case witness fees paid under the provisions of this Act are, by virtue of the judgment of the Court, afterwards recovered from the prosecutor or defendant, the same shall be repaid to the municipality, and one-third accounted for by the municipality to the Crown. R. S. O. 1887, c. 87, s. 13.

Fee to Crown
Attorney in
respect of
certificate.

14. To cover the costs, charges and expenses of, and incidental to, the certificate, or the inquiry whether a certificate should be granted, the County Crown Attorney shall be entitled to receive from the corporation of the county in which the Court is held the sum of \$1, in respect of every prosecution or trial on which a witness is examined, which sums shall be over and above his other costs and charges. R. S. O. 1887, c. 87, s. 14.

One-third of
Crown Attor-
ney's fee to be
repaid to
municipality.

15. One-third of the fee of \$1, payable to the County Crown Attorney, as aforesaid, shall be repaid to the municipality out of the Consolidated Revenue Fund of the Province. R. S. O. 1887, c. 87, s. 15.

Witness fees
payable on
prosecution of
claims, etc., by
Her Majesty.

16. In case of any information, action, or other legal proceeding before any Court in Ontario, by or on behalf of the Crown, for the prosecution of rights, claims or demands of Her Majesty against any person or body corporate, for the use of the Province, or for the recovery of the possession of any lands, deeds or personal property whereto Her Majesty claims to be entitled, for the use of the Province, the witnesses shall be entitled to be paid the like witness fees as are payable in such Court in actions, between subject and subject. R. S. O. 1887, c. 87, s. 16.

Compensation
not payable
before deter-
mination of
the case.

17. Nothing herein contained shall be construed to entitle a witness in any case to which this Act applies to require payment of any sum of money previous to the determination at such Court of the prosecution or trial at which he attends as a witness. R. S. O. 1887, c. 87, s. 17.

Rights of
Counties
under R. S. C.
c. 43, s. 118,
continued.

18. This Act shall not prejudice the rights which any county in which Indian Reservations are located may have as against the Dominion of Canada, under section 118 of *The Indian Act*, being chapter 43 of the Revised Statutes of Canada. R. S. O. 1887, c. 87, s. 18.

CHAPTER 106.

An Act respecting Estreats.

FINES AT ASSIZES :	SALE OF LAND FOR PAYMENT OF
Entry of fines on roll after Assizes,	FINES, ss. 11, 12.
ss. 1, 2.	CONDITION OF RELEASE OF PARTY
Writ to sheriff to levy, s. 3.	IN CUSTODY, s. 13.
FINES AT SESSIONS :	DISCHARGE OF FORFEITED RECOGNIZANCES BY COURT, s. 14.
Entry on roll, ss. 4, 5.	RETURNS BY SHERIFF AND CLERK OF
Writ to Sheriff to levy, s. 6.	PEACE, ss. 15-17.
ESTREAT OF RECOGNIZANCES TO PROSECUTE, ss. 7, 8.	PAYMENT TO PROVINCIAL TREASURER, s. 18.
FORBEARANCE OF ESTREAT, s. 9.	
FORBEARANCE OF LEVY, s. 10.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Unless otherwise provided, all fines, issues, amercements and forfeited recognizances, the disposal of which is within the power of the Province, set, imposed, lost or forfeited, by or before the High Court or any Court of Oyer and Terminer, or General Gaol Delivery, or before any Court of Assize and Nisi Prius, shall, within twenty-one days from the adjournment of such Court, be fairly entered and extracted on a roll, by the Deputy Clerk of the Crown or Clerk of Assize, or in case of his death or absence, by any other person under the direction of the Judge who presided at the Court; which roll shall be made in duplicate, and be signed by the Clerk, or, in case of his death or absence, by the Judge. R. S. O. 1887, c. 88, s. 1.

All fines, etc., shall within 21 days from adjournment of Court be entered on a roll.

2. As soon as the said rolls are prepared one shall be transmitted by the Clerk, or, in the case of his death or absence by the Judge to the Central Office of the High Court at Toronto, and the other with a writ of execution and *capias*, according to the form in the Schedule to this Act, to the Sheriff of the county in and for which such Court was held, which writ, if unexecuted, shall remain in force for one year and no longer. R. S. O. 1887, c. 88, s. 2.

One copy of roll to be sent to the Central Office of the High Court, Toronto, and the other to the Sheriff of the County.

3. Such writ shall be authority to the Sheriff for proceeding to the immediate levying and recovering of such fines, issues, fine, etc.

Mode of proceeding to levy fine, etc.

amercements and forfeited recognizances, on the goods and chattels, lands and tenements of the several persons named therein, or for taking into custody the bodies of such persons respectively, in case sufficient goods and chattels, lands or tenements cannot be found, whereof the sums required can be made; and every person so taken shall be lodged in the Common Gaol of the county until satisfaction is made, or until the High Court upon cause shewn by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R. S. O. 1887, c. 88, s. 3.

Fines, etc., incurred at General Sessions to be entered and extracted on a roll in duplicate.

4. Unless otherwise provided, all fines, issues, amercements and forfeited recognizances, the disposal of which is within the power of the Province, set, imposed, lost or forfeited, by or before any Court of General Sessions of the Peace, shall, within twenty-one days after the adjournment of the Court, be fairly entered and extracted on a roll by the Clerk of the Peace, which roll shall be made out in duplicate, and shall be signed by the Clerk of the Peace. R. S. O. 1887, c. 88, s. 4.

How rolls disposed of and execution issued.

5. One of the rolls shall remain deposited in the office of the Clerk of the Peace, and the other shall, so soon as the same is prepared, be sent by the Clerk of the Peace, with a writ of execution and *capias*, according to the form in the Schedule to this Act, to the Sheriff of the county in which the Court of General Sessions was held. R. S. O. 1887, c. 88, s. 5.

Duty of Sheriff under the execution.

6. The writ shall be authority to the Sheriff for proceeding to the immediate levying and recovering of such fines, issues, amercements, and forfeited recognizances, on the goods and chattels, lands and tenements of the several persons named therein, or for taking into custody the bodies of such persons respectively, in case sufficient goods and chattels, lands or tenements cannot be found, whereof the sums required can be made; and every person so taken shall be lodged in the Common Gaol of the county until satisfaction is made, or until the Court of General Sessions of the county, upon cause shewn by the party as hereinafter mentioned, makes an order in the case, and until the order has been fully complied with. R. S. O. 1887, c. 88, s. 6.

Estreat of recognizance, etc.

7. In case any person bound by recognizance for his appearance, (or for whose appearance any other person has become so bound) to prosecute or give evidence in any case of misdemeanour for the commission of which a fine or penalty is imposed, which the Province is entitled to receive, makes default, the officer of the Court by whom the estreats are made out, shall prepare a list in writing, specifying the name of every person so making default, and the nature of the offence in respect of which such person, or his surety was so bound, together with the residence, trade, profession, or calling of every such person

and surety, and shall in the list distinguish the principals from the sureties, and shall state the cause, if known, why each such person did not appear, and whether by reason of his non-appearance the ends of justice have been defeated or delayed. R. S. O. 1887, c. 88, s. 7.

8. Every officer shall, before a recognizance is estreated lay the list, if at a sittings of the High Court or at a Court of Oyer and Terminer or Gaol Delivery or General Sessions of the Peace in any district or county, before the Judge or one of the Judges who presided at the Court, who are respectively required to examine the list and to make such order touching the estreating or putting in process the recognizance as appears just; and no officer of the Court shall estreat or put in process a recognizance without the written order of the Judge, before whom the list has been laid. R. S. O. 1887, c. 88, s. 8.

Recognizances, etc., not to be estreated without Judge's order.

9. Except in the cases of persons bound by recognizance for their appearance (or for whose appearance any other person has become bound) to prosecute or give evidence, in every case of default whereby a recognizance has become forfeited, if the cause of absence is made known to the Court in which the party was bound to appear, the Court, on consideration of the cause, and considering also whether by the non-appearance of such person the ends of justice have been defeated or delayed, may forbear to order the recognizance to be estreated; and with respect to all recognizances estreated and all fines imposed by any Court for the non-attendance of a juror or constable, or of a public officer bound to attend at the Court, if it appears to the satisfaction of the Judge who presided thereat, that the absence of the person for whose appearance a recognizance was entered into, or that the absence of a person fined for non-attendance, was owing to circumstances which rendered his absence justifiable, the Judge may make an order directing that the sum forfeited upon the estreated recognizance, or the fine imposed shall not be levied. R. S. O. 1887, c. 88, s. 9.

Court may forbear estreating recognizances under certain circumstances.

10. For this purpose, the clerk before sending to the sheriff the roll, with a writ of execution and *capias*, as directed by this Act, shall submit the same to the Judge who presided at the Court for his revision; and the Judge, may make a minute on the roll and writ of any forfeited recognizances and fines which he thinks fit to direct not to be levied; and the sheriff shall observe the direction in the minute, and shall forbear accordingly to levy the forfeited recognizance or fine. R. S. O. 1887, c. 88, s. 10.

Presiding Judge may direct Sheriff to forbear levying fines, etc., under certain circumstances.

11. If upon a writ issued under this Act, the sheriff takes lands or tenements in execution, he shall advertise the same in like manner as he is required to do before the sale of lands in execution in other cases; and no sale shall take place

Mode of proceeding where lands are seized for payment of fines, etc.

in less than twelve months from the time the writ comes to the hands of the sheriff. R. S. O. 1887, c. 88, s. 11.

Deputy Clerk of Crown, etc., to make affidavit.

12. The Clerk shall, at the foot of every roll made out as herein directed, make affidavit in the following form, that is to say :

Form.

“*I, A. B., (describing his office), make oath that this roll is truly and carefully made up and examined, and that all fines, issues, amercements, recognizances and forfeitures which were set, lost, imposed or forfeited, at or by the Court therein mentioned, and which in right and due course of law ought to be levied and paid, are, to the best of my knowledge and understanding, inserted in the said roll; and that in the said roll are also contained and expressed all such fines as have been paid to or received by me, either in Court or otherwise, without any wilful discharge, omission, misnomer, or defect whatever : So help me God.*”

which affidavit any Justice of the Peace for the county is hereby authorized to administer. R. S. O. 1887, c. 88, s. 12.

Conditions upon which a party in custody of the Sheriff may be released.

13. If a person on whose goods and chattels a sheriff bailiff or other officer is authorized to levy a forfeited recognizance, gives security to the sheriff or other officer for his appearance in the Court into which the writ is returnable within thirty days after the giving of the security, or so soon thereafter as the Court shall sit, then and there to abide the decision of the Court, and also to pay the forfeited recognizance, or sum of money to be paid in lieu or satisfaction thereof, together with all such expenses as may be adjudged and ordered by the Court, the sheriff or officer shall discharge such person out of custody; and in case the person does not appear in pursuance of his undertaking, the Court may forthwith issue a writ of execution and *capias* against the surety or sureties of the person so bound as aforesaid. R. S. O. 1887, c. 88, s. 13.

Court under certain circumstances may discharge forfeited recognizances, etc.

14. The High Court or Court of General Sessions, into which any writ of execution and *capias* issued under this Act, is returnable, may inquire into the circumstances of the case, and may, in its discretion, order the discharge of the whole of the forfeited recognizance, or sum of money paid or to be paid in lieu or satisfaction thereof, and make such order thereon as to the Court appears just; and the order shall be a discharge to the sheriff or to the party, according to the circumstances of the case. R. S. O. 1887, c. 88, s. 14.

Manner of return by Sheriff, etc.

15. The sheriff to whom a writ is directed under this Act, shall with his return state on the back of the roll attached to the writ, what has been done in the execution thereof; and the return shall be filed in the Court into which it is made. R. S. O. 1887, c. 88, s. 15.

16. A copy of the roll and return, certified by the Clerk of the Peace, or by one of the Registrars of the High Court shall be forthwith transmitted to the Treasurer of the Province, and to the Inspector of Legal Offices, with a minute thereon of any of the sums therein mentioned, which have been remitted by order of the Court, in the whole or in part, or directed to be forborne, under the authority of this Act. R. S. O. 1887, c. 88, s. 16.

Copy of roll and return to be sent to Provincial Treasurer.

17. The sheriff shall, without delay, pay over all moneys by him collected to the Provincial Treasurer or other officer or person entitled to receive the same. R. S. O. 1887, c. 88, s. 17.

Sheriff to pay to Provincial Treasurer or person entitled.

SCHEDULE.

(Sections 2 and 5.)

WRIT OF EXECUTION AND CAPIAS.

VICTORIA, by the Grace of God, etc.

To the Sheriff of _____, Greeting :

You are hereby commanded to levy of the goods and chattels, lands and tenements of all and singular the persons mentioned in the roll or extract to this Writ annexed, all and singular the debts and sums of money upon them severally imposed and charged as therein is specified ; and if any of the said several debts cannot be levied, by reason of no goods or chattels, lands or tenements being to be found belonging to the said parties respectively, then, and in all such cases, that you take the bodies of such parties and keep them safely in the Gaol of your County, there to abide the judgment of Our High Court, (or Court of General Sessions, *as the case may be*) upon any matter to be shewn by them respectively, or otherwise to remain in your custody as aforesaid until such debt is satisfied, unless any of such persons respectively gives sufficient security for his appearance at the said Court within thirty days after the giving of the security, or so soon after as the Court shall sit, for which you will be held answerable ; and what you do in the premises make appear before Us in Our High Court of Justice at Toronto, (or at the next Court of General Sessions of the Peace, *as the case may be*) immediately after the execution hereof and have then and there this Writ.

Witness, etc., A. B., Deputy Clerk of the Crown (or C. D., Clerk of the Peace or *as the case may be*) for the County of _____, this
day of _____, 18 .

R. S. O. 1887, c. 88, Sched.

CHAPTER 107.

An Act respecting the Appropriation of certain Fines and Forfeitures.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

The portion of all fines distributed by the law of England to the poor shall be paid to the Treasurer of the county or city in which conviction took place.

1. In all cases not otherwise provided for, in which, by any Imperial Statute in force in Ontario, a fine or penalty is imposed, in respect to matters within the legislative authority of the Legislature of Ontario, and the whole or part of the fine or penalty is in any manner appropriated for the support of the poor, or to any parochial or other purpose, inapplicable to the existing state of Ontario, the fine or penalty, or the part thereof so appropriated, shall, when received, be paid to the Treasurer of the County or City or Town separated from the County in which the conviction has taken place, to be appropriated to the purposes thereof, and to be accounted for in the same manner as the general rates and assessments levied therein are applicable and accountable by law. R. S. O. 1887, c. 89, s. 1.

Where no appropriation specified, fines etc., shall be paid to the Provincial Treasurer.

2. Every fine and penalty imposed for the punishment of any offence prohibited by any statute now or hereafter in force in this Province, and the proceeds of every forfeiture imposed and given to the Crown by any statute now or hereafter in force in this Province, shall, where the disposal of the same is within the power of the Province and no other provision is made in respect thereto, be paid to the Treasurer of the Province, and shall form part of the Consolidated Revenue Fund. R. S. O. 1887, c. 89, s. 2. See also *Rev. Stat.* Cap. 1, s. 8 (30).

[By 55-56 V. c. 29, s. 229 (*Dom.*) provision is made for the appropriation of fines, etc., the disposal of which is not within the authority of the Province.]

CHAPTER 108.

An Act respecting the Remission of certain Penalties.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where a pecuniary penalty or forfeiture is imposed by any Act of this Province or by any other Act now in force in this Province, within the legislative authority of this Province, the Court or Judge having cognizance of the proceedings may, at any time after the commencement thereof, remit in whole or in part any sum of money by such Act imposed as a penalty or forfeiture on a convicted offender, and may do so whether the money is in whole or in part payable to the Crown or to some person other than the Crown, and whether the same is recoverable by indictment, information, summary process, action, or otherwise. R.S.O. 1887, c. 90, s. 1.

Remission of penalties by Court.

2. This Act shall not be held to give to a Police Magistrate or Justice of the Peace the authority herein mentioned. R.S.O. 1887, c. 90, s. 2.

Act not to apply to Magistrates.

3. The Lieutenant-Governor in Council shall also have power at any time to remit any such penalty or forfeiture, in whole or in part, unless the same is imposed by *The Act respecting the Legislative Assembly*, or by some Act respecting elections of members of the Legislative Assembly, or is recoverable in respect of an offence committed in connection with an election of a member of the said Assembly. R.S.O. 1887, c. 90, s. 3.

Lieutenant-Governor may remit penalties.

Rev. Stat. c. 21.

4. This Act shall not be construed to include the power of remitting any costs incurred up to the time of remitting the penalty or forfeiture. R.S.O. 1887, c. 90, s. 4.

Not to apply to costs.

[See also Cap. 13, secs. 1 and 2].

8. IN UNORGANIZED DISTRICTS.

CHAPTER 109.

An Act respecting the Administration of Justice in those portions of the Province outside of County Organization.

SHORT TITLE, s. 1.
 PROVISIONAL JUDICIAL DISTRICTS,
 s. 2.
 Senior and Junior Districts, s. 3.
 DISTRICT TOWNS, s. 4.
 COURTS IN DISTRICTS, ss. 5-22.
 District, Surrogate and Division
 Courts continued, s. 5.
 Judges of District and Surrogate
 Courts, s. 6.
 Powers of Judges and Officers
 same as in Counties, s. 7.
 Territorial Districts to be re-
 garded as Counties, s. 8.
 Jurisdiction of District Courts,
 ss. 9-11.
 Chamber Matters in Rainy River,
 ss. 12-14.
 Right of Appeal in certain cases,
 s. 15.
 Officers of Courts, ss. 16-18.
 Sittings of District and Surrogate
 Courts and Sessions of the
 Peace, ss. 19-21.
 High Court Sittings, s. 22.
 COMMISSIONS OF ASSIZE, s. 23.
 JURORS AND JURIES, ss. 24-27.

DISTRICT ATTORNEY AND CLERK OF
 PEACE FOR RAINY RIVER, s. 28.
 SHERIFF AND WRITS, ss. 29-36.
 STIPENDIARY MAGISTRATES, ss. 37-
 43.
 FINES AND PENALTIES, HOW TO BE
 PAID, s. 44.
 JUSTICES OF THE PEACE, ss. 45, 46.
 RETURNS OF CONVICTIONS, s. 47.
 CONSTABLES IN DISTRICTS AND PRO-
 VISIONAL COUNTIES, ss. 48, 49.
 COURT HOUSE, s. 50.
 GAOLS AND LOCK-UPS, ss. 51-54.
 DIVISION COURTS, ss. 55-74.
 REGISTRY OF DEEDS AND OFFICES
 OF LAND TITLES, ss. 75-83.
 SPECIAL SITTINGS OF COURTS IN
 DISTRICTS AND PROVISIONAL
 COUNTIES, ss. 84-86.
 High Court Actions may be tried
 at, s. 87.
 JURIES AND GAOLS IN PROVISIONAL
 COUNTIES, ss. 88, 89.
 ALTERING AND FORMING DISTRICTS,
 ss. 90-92.
 JURISDICTION AS TO VALIDITY OF
 CERTAIN BY-LAWS, ETC., s. 93.
 TRESPASS BY ANIMALS, s. 94.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Unorganized Territory Act.*" 60 V. c. 19, s. 1.

PROVISIONAL JUDICIAL DISTRICTS.

Provisional
 Judicial
 Districts,

2. Subject to the provisions of this Act, the Territorial Districts hereinafter mentioned shall form Provisional Judicial Districts:—

1. Thunder Bay and Rainy River shall form The Provisional Judicial District of Thunder Bay and Rainy River. Thunder Bay and Rainy River.

2. Algoma and Manitoulin shall form The Provisional Judicial District of Algoma and Manitoulin. Algoma and Manitoulin.

3. Nipissing shall form The Provisional Judicial District of Nipissing. Nipissing.

4. Muskoka and Parry Sound shall form The Provisional Judicial District of Muskoka and Parry Sound. 60 V. c. 19, s. 3. Muskoka and Parry Sound.

Senior and Junior Districts.

3. The Districts of Thunder Bay, Algoma and Muskoka are hereafter referred to and shall be known as the Senior Districts of their respective Provisional Judicial Districts, and Rainy River, Manitoulin and Parry Sound as the Junior Districts. 60 V. c. 19, s. 4. Senior and Junior Districts.

DISTRICT TOWNS.

4. The following shall be the District Towns of the several Territorial Districts:— District towns.

- Port Arthur,—of the District of Thunder Bay.
- Rat Portage,—of the District of Rainy River.
- Sault Ste. Marie,—of the District of Algoma.
- Gore Bay,—of the District of Manitoulin.
- North Bay,—of the District of Nipissing.
- Parry Sound,—of the District of Parry Sound, and
- Bracebridge,—of the District of Muskoka.

60 V. c. 19, s. 9 (1).

COURTS IN DISTRICTS.

5. There shall be in each of the said Provisional Judicial Districts, and in each Provisional Judicial District hereafter established, a District Court and a Surrogate Court, and the District, Surrogate and Division Courts heretofore established for the territory included in the said several Provisional Judicial Districts shall continue, subject to the provisions of this Act. 60 V. c. 19, s. 5. Courts.

6.—(1) The District Courts shall be presided over by Judges appointed in accordance with the provisions of *The British North America Act, 1867*, and the tenure of office of the said Judges shall be the same as that of County Court Judges, and each of such Judges shall live within the limits of the Provisional Judicial District for which he is appointed. Judges of District Courts.

(2) Every Judge or Junior Judge appointed shall be a Barrister of not less than five years standing at the Bar of Ontario. Qualification.

Local Courts
Act to apply.
Rev. Stat.
c. 54.

(3) Subject to the preceding subsection *The Local Courts Act* shall apply to Provisional Judicial Districts as if every such District were a County.

Surrogate
Judges.

(4) The District Judges who are now Judges of the Surrogate Courts of the said Districts shall continue to be the Judges thereof. 60 V. c. 19, s. 6.

Certain Acts
relating to
local courts
to apply.

Rev. Stat.
cc. 54 and 57.

7.—(1) *The Local Courts Act* and *The Act respecting the County Judges' Criminal Courts* shall extend to the said Provisional Judicial Districts and to the Judges of the said District Courts, and to every Provisional Judicial District hereafter established, and to the Judge of the District Court thereof; and the laws and rules now in force or which may be hereafter passed with respect to Surrogate Courts or Surrogate Judges in counties, or to Courts of General Sessions of the Peace in counties, and the powers of the Justices thereat, or to Appeals to the Judges of the County Courts, or with respect to County Courts, or the power, authority or jurisdiction of the Judges of such Courts, whether sitting in or out of Court, and to the appointment and duties of Crown Attorneys, Clerks of the Peace, Sheriffs, Coroners, Clerks, Commissioners for taking affidavits or taking recognizances of bail, Constables and all other officers attached to such Courts or employed in the administration of justice in connection therewith, shall, unless there is something in the context indicating a different intention, or unless the same is contrary to the express provisions of this Act, also apply to every Provisional Judicial District.

“District” to
be read for
“county” in
Acts relating
to local courts.

(2) The word “District” shall be substituted for the word “County” in the titles of such Courts and officers, as well as in the application of such Acts, laws and rules to Provisional Judicial Districts.

Where Courts
to be held in
new districts.

(3) Such Courts shall be held in each new Provisional Judicial District at the place or places which the Lieutenant-Governor in Council by proclamation from time to time appoints. R.S.O. 1887, c. 62, ss. 1, 2; 60 V. c. 19, s. 7.

Territorial
Districts to be
regarded as
counties.

8.—(1) The said Territorial Districts shall be regarded for judicial purposes as if such several Districts were separate counties except that where two Territorial Districts are united to form one Provisional Judicial District an offender may be tried in whichever of the districts so united it is more convenient to try him, and except that the District Court of a Provisional Judicial District composed of two Territorial Districts shall have jurisdiction over each of the Territorial Districts forming the Provisional Judicial District to be exercised in like manner as the High Court exercises jurisdiction over several counties, and except where otherwise provided in this Act. 60 V. c. 19, s. 8.

Place of trial.

(2) Where more Territorial Districts than one compose a Provisional Judicial District, the place of trial shall be named

in accordance with the practice of the High Court as if each Territorial District were a separate county, but such place of trial may be changed from one Territorial District to another in accordance with the practice from time to time in force in the High Court. 60 V. c. 19, s. 17 (5).

Jurisdiction of District Courts.

9.—(1) The said District Courts shall have the same jurisdiction as is possessed by County Courts.

Jurisdiction of District Courts.

(2) The District Courts of the Provisional Judicial Districts of Algoma and Manitoulin and of Thunder Bay and Rainy River, shall in addition to the jurisdiction conferred by subsection 1 of this section each have jurisdiction to hold plea subject to appeal.

Additional jurisdiction in Algoma and Manitoulin ; Thunder Bay and Rainy River.

(a) In all actions relating to debt, covenant and contract, provided always where the case is beyond the jurisdiction of County Courts that the contract was made within the District or the cause of action arose therein, or the defendant resides therein.

(b) In replevin where the value of the goods or other property or effects distrained, taken or detained, does not exceed the sum of \$400, and the goods, property or effects to be replevied are in the said District.

(c) In all other personal actions where the amount claimed does not exceed \$400.

(d) For the recovery of land situate in the District.

(3) After a trial in an action for the recovery of land or in replevin where the value of the goods claimed exceeds \$200, or in any other case where the cause of action is beyond the jurisdiction possessed by County Courts, and a verdict or judgment exceeding \$200 is obtained, any party entitled to move to set aside or vary the verdict or judgment or to enter a nonsuit may, if he so desires, instead of moving in the District Court and without removing the cause into the High Court by certiorari or otherwise, move in the High Court for such rule or order as he claims to be entitled to. Subject to Rules the motion shall be made in the same manner and subject to the like limitations as to time and otherwise as the motion would have been subject to if the action had been in the High Court and had been tried at a sittings thereof, and the judgment or order of the High Court shall be acted upon as if it were a judgment or order of the said District Court. The High Court shall have jurisdiction to make any order or give any judgment which could be made or given in the cause by the District Court.

Moving against judgment or verdict in High Court.

(4) Where a party is entitled and desires to move under the next preceding subsection he shall notify the clerk of the Dis-

trict Court in writing to transmit the record or certified copy of the pleadings and any exhibits filed at the trial to the Central Office of the High Court at Toronto, and subject to any general Rules, the subsequent practice shall be the same as in case of a trial in the High Court. 60 V. c. 19, s. 10.

Jurisdiction
of District
Courts as to
injunction.

10.—(1) The District Courts of the Provisional Judicial Districts of Algoma and Manitoulin, and of Thunder Bay and Rainy River shall have the same jurisdiction as the High Court with respect to injunctions restraining the committing of waste or trespass on property by unlawfully cutting, destroying or removing trees or timber and with respect to incidental relief, and the practice in the exercise of such jurisdiction shall be the same as nearly as may be as the practice of the High Court.

Order trans-
ferring pro-
ceedings to
High Court.

(2) The High Court or a Judge thereof, on the application of any party to the proceedings made on notice, may order that the whole proceedings be transferred to the High Court, and in that case all papers filed in the District Court shall be transmitted by the Clerk or other proper officer of the District Court to the Central Office of the High Court; and the action shall thenceforth be continued and prosecuted in the High Court as if it had been originally commenced therein.

Terms of
order.

(3) The order may be made on such terms as to payment of costs, giving security and otherwise as the Court or Judge thinks fit.

When pro-
ceedings
shall not be
transferred.

(4) No such case shall be transferred unless the value of the subject matter or the damage to either party appears to amount to upwards of \$1,000, nor unless the case appears to the Court or Judge to be one which ought to be tried in the High Court. 60 V. c. 19, s. 11.

Costs in Actions beyond the Jurisdiction of County Courts.

Scale of costs
to successful
defendant in
action beyond
County Court
jurisdiction.

11.—(1) Where the amount claimed in any action in the said District Courts of the Provisional Judicial Districts of Algoma and Manitoulin and of Thunder Bay and Rainy River, or where in the case of an action for the recovery of land or in replevin the subject matter of the action, as appearing in the writ in the action or in the affidavit filed to obtain the order in replevin, is beyond the jurisdiction of the County Courts in other parts of Ontario, costs to a successful defendant shall be taxed according to the High Court tariff.

Scale of costs
to successful
plaintiff in
such action.

(2) In like manner where the plaintiff recovers in respect to a cause of action beyond the jurisdiction of the County Courts, costs shall be taxed to him according to the High Court tariff, subject however to his obtaining the certificate or order of the Judge where in a like case such certificate or order is required in the High Court.

(3) In respect to any action within the provisions of sub-section 1 of this section the solicitor of an unsuccessful plaintiff shall be entitled to charge his client County Court costs only, unless he was instructed in writing by such client to sue in respect to a matter beyond the jurisdiction of the said County Courts, in which case the said solicitor shall be entitled to charge costs according to the High Court tariff. 60 V. c. 19, s. 12.

Chamber Matters in District Court in Rainy River.

12—(1) In respect of actions commenced or to be commenced in the Provisional Judicial District Court of Thunder Bay and Rainy River by the issue of process out of the office of the deputy clerk for the District of Rainy River, the Stipendiary Magistrate for the District of Rainy River may, subject to an appeal to the Judge of the District Court, do all such things and transact all such business and exercise all such authority and jurisdiction as, by virtue of any statute or custom, or by the rules and practice in force in the said District Court, may be done, transacted or exercised by the said Judge in Chambers, except (unless by consent of the parties) in respect of the following proceedings and matters, that is to say:—

- (a) The referring of causes under any Act in force respecting references;
- (b) Reviewing taxation of costs; and
- (c) Staying proceedings between verdict and judgment.

(2) In such excepted matters, the Stipendiary Magistrate may issue a summons returnable before the said Judge, with or without a stay of proceedings, as he may think proper.

(3) In case any matter shall appear to the Stipendiary Magistrate to be proper for the decision of the Judge, the Stipendiary Magistrate may refer the same to the Judge, and the Judge may either dispose of the matter, or refer the same back to the Stipendiary Magistrate with such directions as he may think fit.

(4) The fees and the scale of allowance thereof, for all matters done by and before the Stipendiary Magistrate, shall be the same as are authorized for business done by and before the Judge.

(5) The Stipendiary Magistrate in granting a summons or order may impose upon the party obtaining the same such terms or conditions as he deems expedient.

(6) Appeals from the Stipendiary Magistrate's order or decision may be made by summons, such summons to be taken out within ten days after the decision complained of, or within such further time as may be allowed by the Judge, or by the Stipendiary Magistrate.

Scale of costs as between solicitor and client.

Jurisdiction of Stipendiary Magistrate in chamber matters in District Court where action commenced in Rainy River.

Issuing summonses returnable before Judge.

Referring matters to District Judge from Stipendiary Magistrate.

Costs on matters before Stipendiary Magistrate.

Imposing terms on granting summonses.

Appeals from Stipendiary Magistrate.

When appeal
not to act
as stay.

(7) An appeal shall be no stay unless so ordered by the Judge or Stipendiary Magistrate.

Costs of ap-
peal.

(8) The costs of an appeal shall be in the discretion of the Judge. 60 V. c. 19, s. 13.

Chamber Matters in High Court brought in Rainy River.

Powers of
Stipendiary
Magistrate
in chamber
matters in
actions in
High Court.

13.—(1) The Stipendiary Magistrate of Rainy River shall, in all actions brought in the District of Rainy River in the High Court, have concurrent jurisdiction with, and the same power and authority as, the Master in Chambers in all proceedings now determined in Chambers at Toronto, except that the authority of the Stipendiary Magistrate shall not extend to proceedings in the nature of a *quo warranto* under *The Municipal Act*, or to the payment of money out of Court, or dispensing with payment of money into Court, in any action or matter, or to appeals from the taxing officers in Toronto pending taxation, or to making an order for the sale of infants' estates.

Rev. Stat.
c. 223.

Reference to
Judge.

(2) The Stipendiary Magistrate may refer any matter pending before him in Chambers to a Judge of the High Court for decision, and the Judge may dispose of the same in whole or in part, or refer back the whole or a part.

Time for
appealing.
Rev. Stat.
c. 51.

(3) Subject to any Rules of Court made under *The Judicature Act*, the time allowed for appealing from any decision or order of the said Stipendiary Magistrate shall be double the time allowed by the rules then in force for appealing from the decision or order of the Master in Chambers in a like case 60 V. c. 19, s. 14.

The two next
preceding sec-
tions tempo-
rary.

14. The two next preceding sections shall only continue in force so long as Thunder Bay and Rainy River are united as one Provisional Judicial District. 60 V. c. 19, s. 15.

Right of
appeal in
certain cases.

Rev. Stat.
c. 55.

15. Where any cause of action in the District Court of the Provisional Judicial District of Thunder Bay and Rainy River is beyond the jurisdiction of County Courts, section 52 of *The County Courts Act*, shall not apply to decisions or orders made in Chambers, but the parties shall have the same right of appeal as if such actions or matters were in the High Court. 60 V. c. 19, s. 16.

Officers of District and Surrogate Courts and of High Court.

Deputy clerks
of District
Courts.

16.—(1) The Lieutenant-Governor may, from time to time, appoint under the Great Seal for each Provisional Judicial District Court which has jurisdiction over two Territorial Districts, an officer for the Junior District to be called the "Deputy Clerk for _____," (naming the District for which the officer is appointed), and who shall keep his office at the District town of the Junior District.

(2) In case a vacancy occurs in such office, the Clerk of the Division Court at the District town shall *ex officio* be Deputy Clerk until another appointment is made, unless where there is a District Crown Attorney for the Junior District, in which case such Crown Attorney shall *ex officio* be Deputy Clerk until such appointment is made. Vacancy.

(3) The said Deputy Clerk shall issue writs for the commencement of actions in the District Court and shall, in respect of actions so commenced and of proceedings therein, perform the like duties and have the like powers and rights as are performed or possessed by the Clerk of the District Court, in respect of actions commenced by writs issued out of his office and of proceedings therein; and the said Deputy Clerk shall also issue such writs and process as may be required in such actions as may in like cases be issued by the said Clerk of the District Court and may renew any such writ as by law may be renewed. Duties.

(4) The Deputy Clerk of a District Court shall have the custody of a seal similar in design to the seal of the Court in the custody of the Clerk of the Court, and the said Deputy Clerk shall seal with the said seal all writs, process and proceedings requiring the seal of the said Court; and every writ, process or proceeding sealed with such seal shall be held to be duly sealed with the seal of the said Court. 60 V. c. 19, s. 17 (1-4). Seal.

(5) In Provisional Judicial Districts, consisting of one Territorial District, the Clerks of the District Courts shall keep their offices in the District towns of their Districts. Where a Provisional Judicial District is composed of more than one Territorial District, the Clerk of the District Court shall keep his office in the District town of the Senior District, and the Deputy Clerk of such Court shall keep his office in the District town of the Junior District. 60 V. c. 19, s. 9 (2). Where offices of clerk and deputy clerk to be kept.

17.—(1) Where a Provisional Judicial District consists of one Territorial District, the Clerk of the District Court shall be *ex officio* Local Registrar of the High Court and Registrar of the Surrogate Court for such District, and where the Provisional Judicial District consists of two Territorial Districts the said Clerk shall be, except in the Provisional Judicial District of Algoma and Manitoulin, *ex officio* Local Registrar of the High Court and Registrar of the Surrogate Court, for the Senior District only. Local Registrar and Registrar of Surrogate Court.

(2) The Clerk of the District Court of the Provisional Judicial District of Algoma and Manitoulin shall be *ex officio* Local Registrar of the High Court for the whole Provisional Judicial District, and Registrar of the Surrogate Court for the Territorial District of Algoma only.

(3) Except in Manitoulin, the Deputy Clerk for the Junior District shall be *ex officio* Local Registrar of the High Court. Local Registrar of High Court.

Court for such District, unless the Lieutenant-Governor shall think fit to make some other appointment, and in case some other appointment is made and a vacancy thereafter occurs, the said Deputy Clerk shall during such vacancy be *ex officio* Local Registrar. 60 V. c. 19, s. 18.

Deputy Registrars of Surrogate Courts.

18.—(1) The Deputy Clerk of a Provisional Judicial District Court shall *ex officio* be Deputy Registrar of the Surrogate Court of the Provisional Judicial District for the Junior Territorial District, and he shall keep his office of Deputy Registrar in the same place as he is required by law to keep his office of Deputy Clerk.

Duties of.
Rev. Stat.
c. 59.

(2) Sections 11, 12, 13 14, 15 and 16 of *The Surrogate Courts Act* shall apply as nearly as may be to each Deputy Registrar, and he shall observe and conform to the provisions thereof and shall perform the like duties and shall have the like powers and rights under and by virtue of the said Act within the Junior District as are performed and possessed by the Registrar of the said Surrogate Court, and the Registrar shall not exercise the powers and rights of Registrar of the Surrogate Court in regard to applications for probate or letters of administration in respect of the will or estate of any person who had at the time of his death his fixed place of abode in the Junior District, or of any person who having no fixed place of abode within Ontario had, at the time of his death, real or personal estate in the Junior District and not in the Senior District, which but for this section would have been exercised by him as Registrar of the said Surrogate Court.

Seals.

(3) The said Deputy Registrar of the Surrogate Court shall have the custody of a seal similar in design to the seal of the Court in the custody of the Registrar, and such seal shall be the seal of the Court for the purpose of sealing all grants, letters, writs, certificates, papers or proceedings in connection with any matter or thing in the office of the said Deputy Registrar requiring to be sealed. 60 V. c. 19, s. 19.

Sittings of District and Surrogate Courts and Sessions of the Peace.

Sittings of
Surrogate
Courts
in Junior
Districts.

19. The Surrogate Court of a Provisional Judicial District composed of two Territorial Districts shall, at the District Town of the Junior District in respect of matters arising within the Junior District, hold such sittings as the Judge thinks proper and necessary, but the Judge may, when he deems it more convenient for the parties interested, perform any judicial or ministerial act affecting either of his Districts in the other District. 60 V. c. 19, s. 21.

Jury sittings
and Sessions
of the Peace
in each territorial district.

20.—(1) Where two Territorial Districts are united to form a Provisional Judicial District the sittings of the Court for

trials and for assessments by jury and sittings of the General Sessions of the Peace shall be held in each of such Districts.

(2) Such Sessions of the Peace shall be for the trial of cases within the jurisdiction of the General Sessions of the Peace where the offence to be tried was committed within the Territorial District, unless where the offender can be more conveniently tried in the other District of the union and for the trial of appeals to the General Sessions from a decision, order or conviction made by a Justice of the Peace within the Territorial District and for such other business as may arise within such district and which in counties is performed or done at the General Sessions.

(3) The sittings in Manitoulin of the District Court of Algoma and Manitoulin shall be for the trial of causes in respect of a contract made within the District of Manitoulin, or if the action is not upon contract then where the cause of action arises within the District or the defendant resides therein. 60 V. c. 19, s. 22.

21.—Sittings of the said District Courts and of the General Sessions of the Peace shall be held each year as follows:—

Times for
Sessions of
District
Courts and
General
Sessions.

1. At Rat Portage on the first Tuesday of the month of June and the second Tuesday of the month of October.
2. At Port Arthur, on the third Tuesday of the month of May, and the second Tuesday of the month of November.
3. At Sault Ste. Marie on the second Tuesday of the months of June and November.
4. In Manitoulin twice a year at such times and place or places as the Lieutenant-Governor shall appoint.
5. At North Bay on the second Tuesday of the months of June and November.
6. At Parry Sound on the first Tuesday of the months of June and November.
7. At Bracebridge on the third Tuesday of the months of June and November. 60 V. c. 19, s. 23.

HIGH COURT SITTINGS.

22 Sittings of the High Court for the trial of civil and criminal cases and for other purposes shall ordinarily be held twice a year at Sault Ste. Marie, Port Arthur and Rat Portage and once a year at Parry Sound, Bracebridge and North Bay or if the Judges of the High Court deem it requisite oftener, on such days as may be appointed therefor by the

Sittings of
High Court.

said Judges. If the Judges of the High Court upon enquiry ascertain on any occasion that any sittings is not required for the due administration of justice it shall not be necessary to appoint a day for the holding thereof. 60 V. c. 19, s. 24.

COMMISSIONS OF ASSIZE, ETC.

Governor may authorize the holding of certain Courts in districts.

23. The Lieutenant-Governor may issue the necessary commissions authorizing the holding of Courts of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery in any Provisional Judicial District. 60 V. c. 19, s. 25.

JURORS AND JURIES.

Selectors of jurors.

24.—(1) The Clerk or Deputy Clerk of the District Court, the Sheriff and the Registrar of Deeds for each Territorial District shall be *ex-officio* selectors of jurors for the District, and may select, choose and return as jurors any of the inhabitants of such Provisional Judicial Districts respectively without reference to the mode prescribed for selecting, balloting or returning jurors by *The Jurors' Act*; and *juries de medietate linguæ*, and juries of a like nature, may be ordered by the Court before which any cause in any of the said Provisional Judicial Districts may be pending.

Rev. Stat. c. 61.

(2) The names selected shall be copied by the Sheriff into a book to be kept by him for that purpose, and the selectors shall certify under their hands in the said book that the names therein were on such a day duly selected. 60 V. c. 19, s. 26.

Precepts for return of panels dispensed with where no business.

25.—(1) It shall not be necessary to issue precepts for the return of panels of grand or petit jurors for any sittings of any District Court or General Sessions of the Peace for the said Districts, if it appears to the Judge of the District Court that at such sittings there will be no business to be brought before such jurors.

Clerk of the Peace and District Court to inform the Judge of necessity for precept.

(2) Where there appears to be need that precepts should issue for the return of panels of jurors aforesaid, it shall be the duty of the Clerk of the Peace of the District, and the Clerk of the District Court, to inform the Judge thereof, in order that precepts may be issued for the return of jurors at the ensuing sittings of the Court.

Precepts when jurors required.

(3) In case jurors are required for either of the said Courts the necessary precepts shall be issued for both of the said Courts. 60 V. c. 19, s. 27.

Where jurors required and no opportunity to summon before the sittings.

26. If the business to be brought before jurors arises so shortly before the sittings, that the jurors cannot reasonably be summoned in sufficient time to attend on the day appointed

for the commencement of the sittings, the Judge may order that the jurors be summoned for a subsequent day, and the Court shall in such case commence its sittings upon the day by law appointed therefor, and shall dispose of such business as may be disposed of without a jury, and shall be thereafter adjourned to the day for which the jurors are summoned as aforesaid. The Judge may make the order hereinbefore authorized, on the day upon which the sittings of the said Court commence or upon any earlier day. 60 V. c. 19, s. 28.

27. In case sittings of the High Court are to be held in any District the Judges of the High Court, or one or more of them shall issue the necessary precepts for the summoning of grand and petit jurors. 60 V. c. 19, s. 29.

Issuing
precepts for
jurors.

DISTRICT ATTORNEY AND CLERK OF THE PEACE FOR RAINY RIVER.

28.—(1) The Lieutenant-Governor may appoint a District Crown Attorney for the district of Rainy River who shall be *ex officio* the Clerk of the Peace for the said district and who shall keep his office at Rat Portage.

District
Crown At-
torney and
Clerk of the
Peace for
Rainy River.

(2) The said District Crown Attorney shall perform in cases arising within the District of Rainy River all the duties required to be performed by Crown Attorneys under and in pursuance of *The Act respecting Crown Attorneys*, or any Acts which may be passed amending the same, or in pursuance of regulations made thereunder. 60 V. c. 19, s. 30.

Rev. Stat.
c. 96.

SHERIFFS AND WRITS.

29.—(1) For the Provisional District of Algoma and Manitoulin, from time to time, a Sheriff shall be appointed, and for each of the said Territorial Districts other than Algoma and Manitoulin, from time to time, a Sheriff shall be appointed.

(2) The said Sheriff of Algoma and Manitoulin shall keep his office in Sault Ste. Marie, and each of the said other Sheriffs shall keep his office in the District town of his district, and except as hereinafter provided *The Act respecting the Office of Sheriff* shall apply to each of the said Sheriffs. 60 V. c. 19, s. 31 (1, 2).

Rev. Stat.
c. 17.

30. It shall not be necessary for a District Sheriff upon his appointment to justify in a greater sum than \$2,000 over and above his just debts, nor shall it be requisite that such Sheriff shall be possessed of real estate to the said amount. 60 V. c. 19, s. 31 (3).

Qualification
of Sheriff.

31.—(1) The Sheriffs of Muskoka and Parry Sound may also be Bailiffs of Division Courts.

Sheriffs of
Muskoka and
Parry Sound
may also act
as bailiffs.

How mileage
to be reckoned

(2) Where the Sheriff of Parry Sound is entitled to mileage, the same shall be reckoned from Parry Sound or Burk's Falls according as the one or the other is the nearer to the place of service. 60 V. c. 19, s. 32.

Sheriff not
required to
effect service
until mileage
paid when
distance ten
miles or over.

32.—(1) The Sheriff of Algoma, Manitoulin, Thunder Bay, Rainy River, or Nipissing shall not be required to execute or serve any writ, paper or proceeding for any party other than the Crown, until an amount reasonably sufficient to cover his mileage in travelling for the purpose of executing or serving the writ, paper or proceeding is paid or tendered to him, unless the distance to be travelled for the purpose of such execution or service is less than ten miles.

Provision in
case distance
less than ten
miles.

(2) Where the distance is less than ten miles such Sheriff shall not be required to execute or serve such writ, paper or proceeding without such reasonable sum as aforesaid being paid or tendered him if he has previously notified the solicitor, or party whose name is endorsed on such writ, paper or proceeding, or by whom such service is required, that prepayment of mileage will be required before execution or service of any writ, paper or proceeding which such solicitor or party may desire to have executed or served. 60 V. c. 19, s. 33.

Time for sales
of land on
execution
limited.

33. No Sheriff, Deputy Sheriff or other officer shall sell or expose for sale under execution, any lands or tenements in the District of Manitoulin, or any lands or tenements in the District of Rainy River which are situate more than twenty miles from the Canadian Pacific Railway, except during the months of July, August, September or October. 60 V. c. 19, s. 34.

Executions in
Nipissing.

34.—(1) No unsatisfied writ which was in the hands of the Sheriff of Renfrew on the 1st day of January, 1895, shall bind lands or goods situate within the District of Nipissing or have any effect upon lands or goods in the District unless the person entitled to the benefit of the unsatisfied writ had before the 1st day of January, 1896, and before the expiry of the writ in the hands of the Sheriff of Renfrew, placed a writ against lands or goods (as the case required) in the hands of the Sheriff of the said District, endorsed with a notice that priority was claimed by virtue of *The Act to erect Nipissing into a Provisional Judicial District*, in which case he shall retain any priority he had at such time by virtue of his writ in the hands of the Sheriff of Renfrew and now has, and he shall, if so required by the Sheriff of Nipissing, furnish to such Sheriff a certificate of the Sheriff of Renfrew shewing the time when such last mentioned Sheriff received his writ, and the Sheriff of Renfrew shall deliver such a certificate to the said person on being requested so to do.

57 V. c. 33.

(2) Any Sheriff who under the said section or under section 40 of *The Unorganized Territory Act*, being chapter 91 of the Revised Statutes of 1887, had prior to the 1st day of January, 1895, actually seized goods and chattels in the said District under a writ directed to him, may complete the execution of the said writ notwithstanding the repeal of section 41 of the last mentioned Act.

Completing executions where seizure has been made.

(3) The Sheriff of Renfrew may complete the execution of any writ of execution in his hands on the 1st day of January, 1895, against lands in the said District, where he had prior to the 1st day of January, 1895, advertised such lands under the execution, and he may execute any subsequent or supplementary writ which depends for its priority upon the writ in his hands as aforesaid, or upon a writ which was previously in his hands, and he may execute all necessary deeds or conveyances relating to the same. 60 V. c. 19, s. 35.

Where lands have been advertised for sale.

35. The Lieutenant-Governor may pay to the Sheriffs and other officers of every Provisional Judicial District, by way of salary or otherwise, out of any unappropriated moneys belonging to the Consolidated Revenue Fund of this Province, such several sums of money as he may think reasonable for the services performed by such officers respectively. 60 V. c. 19, s. 36.

Lieutenant-Governor may pay Sheriff, etc., of the District.

36. The Queen's writs shall run and may be executed in any part of the said Districts, and shall have the same force and effect upon persons and property as similar writs have in the organized parts of Ontario. 60 V. c. 19, s. 37.

Execution of writs.

STIPENDIARY MAGISTRATES.

37.—(1) The Lieutenant-Governor may from time to time appoint in and for each of the said Territorial Districts a fit and proper person to be Stipendiary Magistrate thereof, who shall exercise within the District the Magisterial, Judicial and other functions herein expressed or provided, and who shall reside in such place within the District as the Lieutenant-Governor directs.

Stipendiary Magistrate may be appointed.

(2) Two Stipendiary Magistrates may be appointed for the Provisional Judicial District of Nipissing, and the expression "Stipendiary Magistrate" shall, when used with reference to that District, be taken to apply to either of the Stipendiary Magistrates so appointed.

(3) The Stipendiary Magistrate for Parry Sound shall, until the Lieutenant-Governor thinks fit to make another appointment, be also Stipendiary Magistrate for Manitoulin. 60 V. c. 19, s. 38.

38. The oath to be taken by every Stipendiary Magistrate, Form of oath hereafter appointed shall be as follows:—

"I A. B., do swear, that I will well and truly serve our Sovereign Lady the Queen in the office of Stipendiary Magistrate for the District of (*naming it*) and will faithfully execute the several powers, duties and trusts committed to, or required of me, as such Stipendiary Magistrate without fear, without favour and without malice. So help me God."

60 V. c. 19, s. 39.

Such Magistrate to be a Justice of the Peace; powers as such, etc.

39. Every Stipendiary Magistrate shall be *ex officio* a Justice of the Peace for the whole Provisional Judicial District for which, or for part of which, he is appointed, and shall have all the powers, jurisdiction and authority, and shall perform all the duties which a Justice of the Peace in any county now has, and is required to perform within any such county; and all the protections and provisions of the law applicable to such Justices of the Peace shall extend and apply to such Stipendiary Magistrate acting within the limits of such District; and such Stipendiary Magistrate may and shall act in the execution of the office of Justice of the Peace for the District, although he has not the property qualification required by *The Act respecting the Qualification and Appointment of Justices of the Peace*. 60 V. c. 19, s. 40.

Rev. Stat. c. 86.

Stipendiary Magistrate may sit alone with powers of two Justices.

40. Every Stipendiary Magistrate shall have full power to do alone whatever is authorized by any Statute in force in this Province relating to matters within the legislative authority of the Legislature of the Province to be done by two or more Justices of the Peace, and shall have such power while acting anywhere within the Provisional Judicial District for which or for part of which he is appointed. 60 V. c. 19, s. 41

Powers and duties of Stipendiary Magistrates.

41.—(1) The Stipendiary Magistrates of the said Territorial Districts shall have the like powers, rights and duties as such Magistrates had in the Districts of Muskoka and Parry Sound prior to the said Districts being formed into a Provisional Judicial District, and therein are to be auxiliary to the District Judge.

Provision in case of illness or absence.

(2) In case of there being no Stipendiary Magistrate for any Territorial District, or in case of the absence or illness of the Stipendiary Magistrate, all the duties and powers of that officer shall belong to and be performed and exercised by the District Judge.

May act for Judge.

(3) Each of the Stipendiary Magistrates of Nipissing, Parry Sound and Muskoka may, at the request of the District Judge, act for the Judge in holding any Court or performing any other function or duty of the Judge, and while so acting shall have all the rights, powers and privileges of the Judge. 60 V. c. 19, s. 42.

Salary and fees.

42. Every Stipendiary Magistrate may, besides the salary voted to him by the Legislature, have and take to his own use,

the fees authorized to be taken by Justices of the Peace or by their clerks, in cases of summary proceedings or convictions 60 V. c. 19, s. 43.

43. Every Stipendiary Magistrate shall keep minutes of every proceeding had by and before him, and shall keep such accounts, make such returns and collect such information, with respect to the District for which he is appointed and the state and condition thereof, as the Lieutenant-Governor may from time to time prescribe and require. 60 V. c. 19, s. 44.

Stipendiary Magistrate to keep minutes, accounts, etc.

44. All moneys arising from penalties, forfeitures and fines imposed by a Stipendiary Magistrate or by a Justice of the Peace acting within his District when paid and levied, shall (if not directed by law to be otherwise appropriated) be from time to time paid to such Stipendiary Magistrate who shall account for the same and pay over or disburse the moneys arising therefrom, at such times, in such manner and to such person as the Lieutenant-Governor may from time to time direct. 60 V. c. 19, s. 45.

Application of fines and forfeitures.

JUSTICES OF THE PEACE.

45.—(1) The Lieutenant-Governor may, from time to time, appoint fit and proper persons to be Justices of the Peace in and for each of the said Territorial Districts, and it shall not be necessary for any such Justice of the Peace to possess any property qualification whatever, and where the commission appointing any such Justice dispenses with his residence in the District it shall not be necessary for such Justice to be a resident within the District for which he is appointed.

Appointment of Justices of the Peace.

(2) Justices of the Peace heretofore appointed for the Provisional Judicial District of Algoma or for the Provisional Judicial District of Thunder Bay shall have no authority as Justices except within the Territorial Districts in which they respectively reside. 60 V. c. 19, s. 46.

46. The Justices of the Peace of a Territorial District, whether in General Sessions assembled, or out of Sessions, and the Court of General Sessions of the Peace for any District shall have, use, exercise and enjoy within such District, all the jurisdiction, powers and authority, and discharge and perform all the duties which Justices of the Peace in and for any county, whether in General Sessions assembled, or out of Sessions, and the Court of General Sessions of the Peace in and for the county, by law are entitled and required to use, exercise and enjoy, discharge and perform, and except as to any matters incident to property qualification, and except as to residence, where residence in the District is dispensed with under the next preceding section, shall be subject in all respects to the requirements of the laws in force in this Province respecting the office of Justice of the Peace. 60 V. c. 19, s. 47.

Powers of.

Returns of Convictions.

Returns of
convictions.

47. All returns of convictions required by law to be made by any Justice or Justices of the Peace shall be made to the Clerk of the Peace of the Provisional Judicial District to which the territory in which the conviction takes place belongs, except that in the Territorial District of Rainy River, such returns shall be made to the Clerk of the Peace for the said District at Rat Portage. 60 V. c. 19, s. 48.

CONSTABLES IN DISTRICTS AND PROVISIONAL COUNTIES.

Constables.

48.—(1) The Lieutenant-Governor may from time to time appoint Constables for any District or Provisional County, or for any portion of the territory of Ontario not attached to a county for ordinary municipal and judicial purposes.

Suspension for
misconduct.

(2) In case of any misconduct on the part of a constable appointed under the preceding subsection, the Chairman of the Court of General Sessions of the Peace of the District or Provisional County, or the Stipendiary Magistrate, shall have authority to suspend such constable from office indefinitely, or for any period the said Chairman or Stipendiary Magistrate deems fitting.

Report of such
suspension to
Provincial
Secretary.

(3) The Chairman of the Sessions or the Stipendiary Magistrate, when he suspends any such constable, shall forthwith report the particulars thereof to the Provincial Secretary, in order that the Lieutenant-Governor may take such action as to the revocation of the suspension or dismissal of the said constable, or otherwise as he deems proper. R.S O. 1887, c. 82, s. 11; 60 V. c. 19, s. 49.

Punishment of
constable
misbehaving.

49. If a constable appointed under the authority of this Act is guilty of disobedience of orders, neglect of duty, or of any misconduct as such constable, and is convicted thereof before the Stipendiary Magistrate for the District, or before a Justice of the Peace acting therein, he shall forfeit a sum to be fixed by the Magistrate or Justice not exceeding \$40 and costs, and in default of immediate payment thereof, shall suffer imprisonment for any time not exceeding three months unless the fine and costs are sooner paid; but in case such person is proceeded against by indictment for any offence committed by him, as constable, he shall not in addition be liable to the penalty or punishment imposed by this section. 60 V. c. 19, s. 50.

COURT HOUSE.

Court House.

50. Any building erected or provided in the District Town under the authority of the Lieutenant-Governor for the holding of Courts shall be deemed the Court House of the District. 60 V. c. 19, s. 51.

GAOLS AND LOCK-UPS.

51.—(1) Any gaol or lock-up erected in any Territorial District under the authority of the Lieutenant-Governor or any building so declared by Order of the Lieutenant-Governor in Council shall be a common gaol of the District. Gaols, etc.

(2) Nothing contained in the preceding subsection shall prevent any Court or Magistrate from directing the committal either for safe custody or for punishment of any person whom it may be considered expedient to commit to the common gaol of the Senior District, and such common gaol shall be a common gaol for the whole Provisional Judicial District and where such District embraces more than one Territorial District, for each Territorial District of which it is composed.

(3) Or shall prevent any Court or Magistrate in the District of Parry Sound or Muskoka from directing the committal either for custody or punishment of any person whom it may be considered expedient to commit to the common gaol at Barrie, in the County of Simcoe and such gaol shall be a common gaol for each of the said Territorial Districts of Parry Sound and Muskoka.

(4) Or shall prevent any Court or Magistrate in the District of Algoma or of Manitoulin from directing the committal either for safe custody or for punishment of any person whom it may be considered expedient to commit to the gaol at Sudbury, and the said gaol at Sudbury shall be a common gaol for the Districts of Algoma and Manitoulin as well as for the District of Nipissing. 60 V. c. 19, s. 52.

52. Every common gaol of a District shall be a lawful gaol for the detention and confinement of any person sentenced to imprisonment in or committed to another gaol or prison until such person can be conveniently removed to the gaol or prison to which he has been sentenced or committed as aforesaid. Temporary confinement.
60 V. c. 19, s. 53.

53. Any person imprisoned in any gaol in a Territorial District may be transferred by order of an Inspector of Prisons to the common gaol of the district town of the Territorial District or of the Senior District; and by like order any person imprisoned in the common gaol of the District town of the Junior District may be transferred to the common gaol of the Senior District. 60 V. c. 19, s. 54. Transfer to another gaol within the district.

54.—(1) The Lieutenant-Governor may from time to time appoint a keeper to every common gaol in each District, and the gaol keeper shall perform all the duties and be under and subject to all the liabilities that the gaolers of common gaols in the several counties in Ontario now perform and are subject to, and shall give such security for the due performance of Gaol keeper.

the duties of his office as the Lieutenant-Governor from time to time prescribes, and every such gaol keeper shall be paid out of the Consolidated Revenue Fund, such sums of money annually as the Lieutenant-Governor may think reasonable for the services performed.

(2) In case of a vacancy the Stipendiary Magistrate shall appoint some proper person to act as keeper until an appointment is made by the Lieutenant-Governor. 60 V. c. 19, s. 55.

DIVISION COURTS.

Division
Court Divi-
sions.

55.—(1) The Lieutenant-Governor in Council may divide each of the Territorial Districts into two or more Division Court Divisions, and number the same consecutively beginning at number one, which shall be styled "The First Division Court in the District of (*as the case may be*)."

(2) The District Judge, the Sheriff and the Division Court Inspector may from time to time alter the number, limits and extent of every division, and shall number the divisions in order beginning at number one as aforesaid, but no resolution or order made under the provisions of this section shall be altered or rescinded, unless public notice of the intention so to alter or rescind, or that application will be made to alter or rescind is given and proclaimed in open Court at the next previous sittings of the General Sessions of the Peace.

(3) The Judge shall cause the Sheriff and Inspector to be notified of any application, and of the time and place at which the same is to be considered. 60 V. c. 19, s. 56.

Holding of
Courts.

56.—(1) A Court shall be held in every such division once in every three months or oftener at the discretion of the Judge, who may appoint, and from time to time alter, the times and places within such divisions when and at which such Courts shall be holden, subject to the approval of the Lieutenant-Governor in Council.

(2) The Lieutenant-Governor in Council may from time to time make such regulations as he considers expedient in order to secure the due and convenient holding of Courts in the said Districts, and within all other Districts now or hereafter to be formed in any part of the Unorganized Territory in Ontario. 60 V. c. 19, s. 57.

Division
Court Judges.

57.—(1) The Judges of the Provisional District Courts shall be the Judges of the several Division Courts within their respective Districts, except as in the next subsection provided.

(2) Until the Districts of Parry Sound and Rainy River are erected into separate Provisional Judicial Districts, either by Act of the Legislature or under the provisions of this Act, the Stipendiary Magistrate of each of the said Districts shall be the Judge of the Division Courts within his District. 60 V. c. 19, s. 58.

58.—(1) The said Division Court Judges (besides any additional jurisdiction given to them by this Act) shall have the like jurisdiction and powers as are possessed by the County Judges in Division Courts in counties, and shall perform the like duties. Powers of.

(2) The said Judges shall in all actions brought in the said Division Courts have authority to determine all questions as well of fact as of law in relation thereto in the summary manner authorized by this Act; but if he thinks fit to have any fact or facts controverted in a cause tried by jury, a jury of five persons present shall be returned instantly by the Clerk of the Court to try such fact or facts, and the Judge may give judgment on the verdict of the jury. 60 V. c. 19, s. 59.

59.—(1) The provisions of law from time to time in force relating to Division Courts in counties, and the officers thereof, including the Rules or Forms made or to be made by the Board of County Judges, and the fees payable to the Clerks and Bailiffs, shall apply to the Division Courts of the said Districts, except where inconsistent with this Act, or where the Rules otherwise direct. Laws and rules applicable.

(2) Sections 156 and 176 of *The Division Courts Act* shall not apply to the Division Courts of the said Districts. 60 V. c. 19, s. 60. Rev. Stat. c. 60.

60. Unless exempt under *The Jurors' Act* all male persons between twenty-one and sixty years of age who reside in the division, and who are subjects of Her Majesty by birth or naturalization, may be summoned to serve as jurors at any Division Court. 60 V. c. 19, s. 61. Who may be summoned as jurors in Division Courts. Rev. Stat. c. 61.

61. The Clerk of the Court and a Justice of the Peace resident in the division, or in case there is no Justice of the Peace so resident, then a Justice of the Peace residing in an adjoining division, shall select the persons to serve as jurors for the trial of actions required to be tried by or before a jury. 60 V. c. 19, s. 62. Who to select jurors.

62. The person applying for a jury shall deposit with the Clerk of the Court for the expenses of such jury the sum of six dollars, and each juror who attends shall be paid by such Clerk the sum of fifty cents. 60 V. c. 19, s. 63. Deposit by person requiring.

63. The Division Courts of the said Districts shall not have cognizance of any action for any gambling debt, or for any debt for spirituous, malt or other like liquors nor of any action whether brought by the payee or any other person on a note of hand, the consideration or any part of the consideration of which was for a gambling debt or for such liquors, nor of any action for the recovery of land, or any action in which the right or title to any corporeal or incorporeal hereditaments, or to any Certain causes of action not cognizable.

Jurisdiction of the Court. toll, custom or franchise is in question, or in which the validity of any devise, bequest or limitation under any will or settlement is disputed, nor of any action for malicious prosecution, or for libel or slander, or for criminal conversation or seduction, or for breach of promise of marriage. 60 V. c. 19, s. 64.

Mole of proceeding. Rev. Stat. c. 60. § 4. The said Division Courts, in addition to the jurisdiction given to Division Courts under *The Division Courts Act*, shall have jurisdiction in all personal actions where the amount claimed does not exceed \$100, except as in the next preceding section is provided, and the Judge shall hear and determine such actions and matters in relation thereto in a summary way, and make such orders and judgments as appear to him just and agreeable to equity and good conscience. 60 V. c. 19, s. 65.

Minors may sue for wages, etc. § 5. Any person under the age of twenty-one years may prosecute an action in any such Division Court for any sum of money not exceeding \$100, due to him for wages or piece work, or for work as a servant, in the same manner as if he were of full age. 60 V. c. 19, s. 66.

Trial of actions against Clerks. § 6. With the consent of both parties to the action, the Judge of a Division Court may try any action within his jurisdiction against a Division Court Clerk of his District in any Division Court within the District. 60 V. c. 19, s. 67.

Actions against Division Court Judges. § 7. An action by or against a Judge of a Division Court of a District, if the same is within the jurisdiction of any Division Court of his District, may be brought in any Division Court of any adjoining County or District. 60 V. c. 19, s. 68.

Matters in dispute not over \$800 may be referred to arbitration. § 8.-(1) The Judge holding any Division Court in a District, may, in any case, with the consent in writing of both parties to the action, order the same, with or without other matters in dispute between the parties and within the jurisdiction of the Court as to subject matter, but irrespective of amount if not exceeding \$800, to be referred to arbitration to such persons, and in such manner and on such terms as he may think reasonable and just; and such reference shall not be revocable by either party, except by consent of the said Judge; and the award of the arbitrator or arbitrators or umpire, shall be entered in the cause as a judgment of the Court, and, shall be binding and effectual to all intents and purposes.

Award

Subpoena to witness to attend before arbitrators. (2) Where a reference has been made by such order, either of the parties to the action may obtain from the Clerk of any Division Court, and cause to be duly served, a summons or subpoena requiring the attendance before the said arbitrators of any witness resident within the District, in like manner as before the Judge at the sittings of the said Division Court. 60 V. c. 19, s. 69.

69. The Judge or Stipendiary Magistrate may, on application to him within fourteen days after the entry of the award, set the same aside, or may, with the consent in writing of both parties, revoke the said reference and order another reference to be made in the manner aforesaid. 60 V. c. 19, s. 70.

Award may be set aside.

70.—(1) If the parties between whom differences have arisen agree by a writing signed by them to refer their causes of action, claims and demands to the Judge of the Division Court, and agree that the Judge may try and determine the same, the said Judge shall have power and jurisdiction so to do, provided the subject matter of difference is upon a cause or causes of action not exceeding \$800 in amount, and not within the subjects excepted from the jurisdiction of the said Division Courts.

Parties may agree that the Judge shall try any matter not over \$800.

(2) Every such agreement shall be executed in duplicate, one of which duplicates shall be filed with the said Judge and the other with the Clerk of the Division Court in which the action is proposed to be tried, and the said Court shall thereupon have jurisdiction in respect of the matter so referred.

Submission to be made in duplicate.

(3) Upon such agreement being filed the plaintiff may enter his claim for suit in such Division Court, and sue out a summons thereupon as in ordinary cases, and the proceedings in the said action may be conducted to judgment and execution (irrespective of the amount recovered, provided it does not exceed \$800) in the same manner as in other actions in the said Court, and the judgment in such action shall have the same effect as any other judgment of the Court. 60 V. c. 19, s. 71.

May be filed and proceedings thereon had to judgment in the Division Court.

71. From the judgment pronounced in a case tried under the next preceding two sections an appeal shall lie to a Divisional Court of the High Court of Justice, subject to such rules as to stay of proceedings, and otherwise, as may be made in respect thereto by the Judges authorized under *The County Courts Act* to make rules in respect of County Court appeals, and subject, until such rules are made, to the like rules, and statutory restrictions as are applicable to appeals from the decision of a Judge of a County Court; but the entry of judgment shall not prevent the appeal being had or proceeded with. 60 V. c. 19, s. 72.

Appeal.

Rev. Stat. c. 55.

72. Upon an application for a new trial in a cause wherein either party may appeal, personal service may be effected, or all papers requiring service may be delivered to the Clerk of the Division Court where the action was tried, or left at his office for the person entitled thereto. The Clerk shall forthwith mail by registered letter all such papers to the person entitled to the same, or his authorized agent. 60 V. c. 19, s. 73.

Service on application for new trial.

73. No appeal shall lie to a Divisional Court of the High Court of Justice if before the commencement of the trial and

Parties may agree not to appeal.

without the intervention of the Judge, there shall be filed with the Clerk an agreement in writing not to appeal, signed by both parties, or by their solicitors or agents. The Judge shall note in his minutes whether such agreement was filed or not, and the minutes shall be evidence upon that point. 60 V. c. 19, s. 74.

Judge may
act for
Stipendiary
Magistrate
and *vice versa*.

74.—(1) The Judge of a District Court of any Provisional Judicial District may, if he thinks fit, at the request of the Stipendiary Magistrate of any Territorial District belonging to the Provisional Judicial District hold any Division Court in the said Territorial District, and the said Judge while holding such Court shall have all the rights, powers and privileges of the Stipendiary Magistrate.

(2) A Stipendiary Magistrate of any Territorial District belonging to a Provisional Judicial District may, at the request of the District Judge, act for the Judge in holding any Division Court, or performing any other function or duty of the Judge in connection with the Division Courts in any part of the Provisional Judicial District, and while so acting, such Stipendiary Magistrate shall have all the rights, powers and privileges of the Judge. 60 V. c. 19, s. 75.

REGISTRATION OF DEEDS AND OFFICE OF LAND TITLES.

Registrar of
Deeds may be
appointed.

Rev. Stat.
c. 136.

75. The Lieutenant-Governor in Council may appoint a Registrar of Deeds in and for each of the said Territorial Districts, who shall hold office during pleasure, and who, subject to the provisions of *The Registry Act*, shall register all deeds, and conveyances and instruments relating to lands in his District which were patented prior to the 31st day of December, 1887. 60 V. c. 19, s. 76 (1) part.

Instruments
affecting un-
patented
lands in
certain dis-
tricts not to
be registered
in Registry
Office, but
caution may
be lodged.
Rev Stat.
c. 138.

Description
of land in
caution.

76.—(1) No instrument affecting any land in any of the districts of Muskoka, Parry Sound, Nipissing, Thunder Bay, Rainy River, or Algoma, which is unpatented, or which has or shall be patented by the Government of Ontario since the 31st day of December, 1887, shall hereafter be registered in a registry office, but any person claiming any interest in any such land may as heretofore lodge with the Local Master of Titles a caution under section 85 of *The Land Titles Act*. 60 V. c. 21, s. 1.

(2) No such caution shall be of any validity unless the description contained therein specifies the land in accordance with the description subsequently contained in the Patent, or describes the same in such a manner that the Local Master will know that the description in the caution is intended to affect the land described in the Patent. 60 V. c. 21, s. 2 (2).

Registration
to cease to
have effect on
13th April,
1899.

(3) The registration of any instrument affecting unpatented lands in any of the said districts except Manitoulin shall cease to have any effect on or after the 13th day of April, 1899. 60 V. c. 21, s. 2 (1) part.

77. The Registrar of Manitoulin shall, subject to *The Registry Act*, register all instruments affecting lands in his district which, under the said Act or under section 28 of *The Act respecting the Heir, Devisee and Assignee Commission*, may be registered whether such lands were or are patented before or after the said date or are unpatented. 60 V. c. 19, s. 76 (1), part. Rev. Stat. c. 136.
Rev. Stat. c. 31.

[For provisions requiring Patents for lands in districts to be sent to the Local Master of Titles for entry, see Cap. 138, sec. 169.]

78.—(1) Each Registrar shall keep his office in the District Town of his District unless some other place is named for that purpose in his commission, or at such other place as may be appointed from time to time by the Lieutenant-Governor in Council, and subject to this Act his duties shall be the same as the duties of other Registrars under the registry laws of this Province; and his fees shall be the same as those appointed and established by such registry laws. Office, duties and fees of Registrar.

(2) The Lieutenant-Governor in Council may order an annual salary, not exceeding \$800, to be paid to the Registrar of a district out of the Consolidated Revenue Fund of this Province, in lieu of such fees; the said fees shall in such case be paid into the Consolidated Revenue Fund. 60 V. c. 19, s. 76 (2, 3). Salary may be allowed.

79. The provisions of law relating to securities to be given by Registrars of Deeds in other parts of Ontario shall apply to the Registrars of the said districts, except that the covenant to be given by such officers shall be for such an amount as the Lieutenant-Governor in Council may determine. 60 V. c. 19, s. 77. Securities by Registrars.

80. The Lieutenant-Governor in Council may, from time to time, by proclamation, limit the territory which, for registry purposes shall be included within any of the said Districts. 60 V. c. 3, s. 3; c. 19, s. 78. Alteration of limits of territory for registry purposes.

81. The Registrar of any of the said Districts when thereunto required by the Lieutenant-Governor, shall transfer and deliver to the Registrar of any other of the said Districts all books, deeds, papers, plans and documents in his possession as such Registrar, referring or relating exclusively to any lands within such other District; and all the provisions of the registry laws of this Province relating to the transfer of books, deeds, memorials, plans and other documents or instruments from one registry office to another registry office, when a part of a county has been detached therefrom and set apart for registration purposes, shall apply to the Registrars and registry offices in the said Districts. 60 V. c. 19, s. 79. Transfer of books & deeds, etc.

Local Master
of Titles and
application
of Rev. Stat.
c. 128.

82.—(1) The Lieutenant-Governor shall appoint for each of the said Territorial Districts a Local Master of Titles, who shall hold office during pleasure, and the sections of *The Land Titles Act* numbered 163 to 173 inclusive, shall apply to the said districts.

Local Master
of Titles may
be registrar
of deeds.

(2) The Local Master of Titles may also be Registrar of Deeds. 60 V. c. 19, s. 80.

Security.

83.—(1) The Lieutenant-Governor may, when both offices are held by one person, require one instrument of security to be given for both offices, in which case such instrument shall be, as nearly as may be, in the form given in Schedule A to *The Roads Act*, subject, however, to the provisions of sections 24 and 25 of *The Act respecting Public Officers*.

Rev. Stat.
c. 136.
Rev. Stat.
c. 16.

(2) The said officer and his sureties shall, in such case, be jointly and severally liable on their covenant to any aggrieved person or persons, including the Crown, to indemnify him or them against any damage or loss sustained by him or them, by or through the neglect or misconduct of the officer, or his deputy, in the performance of the duties of his office, not exceeding the penalty named therein, but this provision shall not exempt the officer from any further responsibility to persons sustaining damage or loss as aforesaid, or render him liable in respect of any act or omission for which protection is given by section 106 of *The Land Titles Act*. 60 V. c. 19, s. 81.

Rev. Stat. c.
138.

SPECIAL SITTINGS OF COURTS IN DISTRICTS AND PROVISIONAL COUNTIES.

Judge may
appoint addi-
tional sittings
of County or
District Court
within a Ter-
ritorial Dis-
trict or Provi-
sional County.

84.—(1) The Judge of any County or District Court to whose jurisdiction any Provisional County or Territorial District belongs, may appoint additional sittings of the County or District Court and of the Court of the General Sessions of the Peace, or of either of such Courts, to be held at such place or places within such District or Provisional County as he thinks fit.

(2) Such sittings of the County or District Court shall be for the trial of causes, where the contract was made within the Provisional County or Territorial District within which such sittings are held; or if the action is not upon contract, then where the cause of action arose within such Provisional County or District.

(3) Such Sessions of the Peace shall be for the trial of causes within the jurisdiction of the General Sessions of the Peace, provided the offence to be tried was committed within the said Provisional County or Territorial District. 60 V. c. 19, s. 82.

Lieutenant-
Governor in
Council may
require sittings
to be
held.

85. Sittings of any of the said Courts shall also be held at such times and places as the Lieutenant-Governor in Council may appoint. 60 V. c. 19, s. 83.

86.—(1) In case the Lieutenant-Governor directs sittings of the Court of General Sessions of the Peace of any County or District to be held at regular periods at some place within a Territorial District or Provisional County, and issues his proclamation in that behalf, such sittings shall thereafter be the proper Court for the trial of appeals to the General Sessions from a decision, order or conviction, made by a Justice of the Peace within such District or Provisional County, and such Court shall have full and complete jurisdiction and authority for the trial of every such appeal, as well as for the trial, of any person charged with an offence committed within the District or Provisional County over which the Sessions have jurisdiction.

Appeals to General Sessions in such case.

(2) Where an offender may be more conveniently tried within that portion of the County or Provisional Judicial District outside of such Provisional County or Territorial District, such offender may be so tried. 60 V. c. 19, s. 84.

TRIAL OF HIGH COURT ACTIONS.

87. The High Court or a Judge thereof may direct that any action for the recovery of lands lying in the Provisional County or Territorial District in which any sittings of a County or District Court are to be held, or any other action pending in the High Court, shall be tried at such sittings; or may order that the witnesses shall be examined and the facts ascertained at such sittings and the questions of law arising thereon reserved for the opinion of the Court; or may make such like order for the purpose of facilitating the determination of the matters in dispute in the action as he thinks fit. 60 V. c. 19, s. 85.

High Court or a Judge thereof may order trial of actions or examinations of witnesses at the Courts held under this Act.

JURIES IN PROVISIONAL COUNTIES.

88. Where sittings of a Court are held in a Provisional County the Sheriff or other officer whose duty it is, or who may be legally required, to summon and return jurors or persons to serve as jurors for such Courts, may select, choose and return for such jurors, in case jurors are required, any of the inhabitants of such Provisional County, without reference to the mode prescribed for selecting, balloting or returning jurors by *The Jurors' Act*. 60 V. c. 19, s. 86.

Summoning jurors.

Rev. Stat. c. 61.

GAOLS IN PROVISIONAL COUNTIES.

89. The Lieutenant-Governor may from time to time direct that one or more suitable erections shall be provided by the Commissioner of Public Works in any Provisional County for the safe custody of prisoners charged with crime or convicted of any offence, and every erection so provided shall be deemed a common gaol of such Provisional County. 60 V. c. 19, s. 87.

Gaols to be provided.

NEW DISTRICTS AND ALTERATION OF LIMITS.

Separation of
senior and
junior
districts.

90.—(1) Where a Provisional Judicial District is composed of two Territorial Districts, the Lieutenant-Governor in Council may, by proclamation, declare that from a day to be named in the proclamation, the Junior District shall be detached from the Provisional Judicial District and erected into a separate Provisional Judicial District.

(2) Upon the issue of such proclamation the Judges of the District and Surrogate Courts for the new Provisional Judicial District may be appointed, and any other appointments which are required may be made; all such appointments shall go into force at the time named in the said proclamation for the separation to take effect.

(3) When the separation takes effect the name of the Junior District shall cease to be part of the names of the Courts of the Senior District, and the Division Courts in each District shall, until a new division is made, be the Division Courts of such District.

Rev. Stat.
c. 60.

(4) In applying sections 17, 18 and 19 of *The Division Courts Act* to the circumstances arising upon any such separation, the officers authorized by section 55 of this Act to make changes in respect of Division Courts in Districts, shall be substituted for those authorized by the said sections to make changes in respect of Division Courts in Counties. 60 V. c. 19, s. 88.

Alteration of
limits.

91. The Lieutenant-Governor in Council may from time to time, by proclamation, detach any township or territory from any Provisional Judicial, or Territorial District, and annex the same to any adjoining District. 60 V. c. 19, s. 89.

Effect upon
certain
officers.

92.—(1) In case a portion of a County or of a Provisional Judicial or other District has been, or shall be formed into or annexed to another District whether by Act of the Legislature or by proclamation of the Lieutenant-Governor, the Coroners, Justices of the Peace and Commissioners for taking affidavits or for taking recognizances of bail residing in the territory so dealt with, shall be Coroners, Justices of the Peace and Commissioners for the Territorial District into which the territory in which they reside is formed, or to which it is attached, by the same tenure of office and without their again taking any oaths.

(2) If the Territorial District to which such locality thereafter belongs is part of a Provisional Judicial District, composed of two Territorial Districts, such Justices may act in General Sessions of the Peace as Justices for the Provisional Judicial District, but shall not elsewhere act as Justices except for the Territorial District in which they respectively reside at the time of the formation or annexation as aforesaid.

(3) This section shall not apply to a Justice of the Peace where the commission appointing him dispensed with his residence in the District for which he was appointed. 60 V. c. 19, s. 90.

VALIDITY OF MUNICIPAL BY-LAWS, ETC.

93.—(1) If any dispute at any time arises as to the validity of any by-law, or resolution, or order of any municipality in the Provisional Judicial Districts of Algoma and Manitoulin, and of Thunder Bay and Rainy River, the same shall be referred to the Judge of the District, whose decision thereon shall be final; and the said Judge shall have the power of enforcing his decision, if necessary, by a writ or writs under his hand and seal, to be directed to the proper Sheriff and adapted to the purposes intended. District Judge to decide disputes as to by-laws, etc.

(2) Where any party to the proceedings before the Judge of the District is dissatisfied with his decision, he may appeal therefrom to a Divisional Court of the High Court, upon giving ten days' notice of such appeal within two weeks after publication of such decision. 60 V. c. 19, s. 91.

TRESPASSES BY ANIMALS.

94. No damages shall be recovered in respect of injuries committed in any of the said Districts upon any land by horses, cattle, sheep, or swine, straying upon such land, unless the animal so straying was running at large contrary to a municipal by-law in that behalf; and where no by-law prohibiting or regulating the running at large of the class of animals to which the animal trespassing belongs, is in force in the municipality, township or place, then no such damages shall be recovered unless such animal has broken through or jumped over a fence then being in reasonably good order and of the height of four and one-half feet; but this section shall not apply to breachy or unruly animals. 60 V. c. 19, s. 92. Trespases by animals.

9. ADMINISTRATION OF JUSTICE IN THE VICINITY
OF THE FALLS OF NIAGARA.

CHAPTER 110.

An Act to provide for the better Government of that
part of Ontario situated in the Vicinity of the Falls
of Niagara.

APPOINTMENT OF POLICE MAGIS-	APPEALS, s. 7.
TRATE, s. 1.	CONSTABLES, s. 8.
POWERS AND DUTIES, ss. 2-6	EXPENSES UNDER THIS ACT, s. 9.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario
enacts as follows :—

Appointment
of Police
Magistrate.

1. The Lieutenant-Governor in Council may, from time to time, appoint a fit and proper person to be Police Magistrate for the Town of Niagara Falls in the County of Welland. R. S. O. 1887 c. 92, s. 1.

Powers and
duties of Police
Magistrate.

2. The Police Magistrate shall be *ex officio* a Justice of the Peace of and for the County of Lincoln, and of and for the county of Welland; and may exercise within the said counties the jurisdiction and authority of two Justices of the Peace in relation to all matters in respect to which the Legislature of this Province has authority so to enact. R. S. O. 1887, c. 92, s. 2.

Police Court
at Fort Erie.

3. The Police Magistrate shall, as often as he considers necessary, or in case the Lieutenant-Governor in Council gives a direction in that behalf, then as often as the Lieutenant-Governor in Council directs, hold a Police Court in the Village of Fort Erie. R. S. O. 1887, c. 92, s. 3.

What com-
plaints to be
heard.

4. Subject to the provisions of the preceding section, it shall not be the duty of the Police Magistrate, unless he finds it convenient so to do, to entertain any complaint except with reference to offences committed within the limits of the Town of Niagara Falls or of the Township of Stamford; and he shall, as far as practicable, give precedence to complaints in which persons

residing at a distance are concerned, either as parties or as witnesses, over complaints concerning only persons residing in the neighbourhood. R. S. O. 1887, c. 92, s. 4.

5. In addition to any other penalty imposed by any statute or by any by-law of the municipality, as a punishment for any offence, the Police Magistrate shall have authority to inflict as an additional punishment, the revocation or the suspension for such period as he may consider just, of any license granted or issued by the municipal officers of the Town of Niagara Falls or of the Township of Stamford, or of the Village of Fort Erie, or of the Township of Bertie, to the person convicted, or granted or issued to such person by a Board of License Commissioners or Inspector of Licenses, within whose license district any of the said municipalities respectively is situate. R. S. O. 1887, c. 92, s. 5.

Power of
revocation of
licenses.

6. The Police Magistrate shall, in all cases of complaint under this Act, reduce to writing the whole of the evidence of the witnesses examined before him, and shall read the same over to the witnesses, who shall sign the same. R. S. O. 1887, c. 92, s. 6.

Evidence to
be reduced to
writing.

7. An appeal shall lie from a conviction had under this Act to the Judge of the County Court of the county in which the conviction is made, without a jury; and except as aforesaid, no appeal shall lie either to any Court of General Sessions of the Peace, or to any other Court, from the conviction or order of the Police Magistrate, for an offence against any statute relating to matters within the authority of the Legislature of this Province, or for an offence against a by-law of a municipality. R. S. O. 1887, c. 92, s. 7.

Appeals.

8.—(1) The Lieutenant-Governor may appoint as many constables as he may consider requisite for the efficient administration of justice in the neighbourhood of the Falls of Niagara.

Appointment
of constables.

(2) No constable shall be entitled to charge any fees for his own use. R. S. O. 1887, c. 92, s. 8.

9. (1) The Police Magistrate shall keep proper accounts of all fines, penalties and costs imposed in the Police Court of the said Town of Niagara Falls and Village of Fort Erie, or elsewhere imposed by him; and shall immediately upon such fines, penalties and costs (other than fines arising from prosecutions under *The Liquor License Act*.) being collected and received, or at such periods as the Treasurer of Ontario from time to time directs, deposit the amount thereof in such bank as the Treasurer from time to time directs, to the credit of a fund to be called the "Niagara Falls Police Fund."

Police Magis-
trate to keep
accounts of
fines, etc.
Deposit of
fines, etc.

Rev. Stat.
c. 245.

(2) All fines from prosecutions under *The Liquor License Act*, shall form part of the license fund of the district to be dealt with as provided by the said Act. R. S. O. 1887, c. 92, s. 9.

Rev. Stat.
c. 245.

SECTION VIII.

LAW OF PROPERTY.

1. LAW OF PROPERTY IN GENERAL.

CHAPTER 111.

An Act adopting the Law of England in Certain Matters.

Recited Act
of U. C.
32 G. 3. c. 1.

WHEREAS by the first Act passed in the first Session of the Parliament of Upper Canada, on the 15th day of October, 1792, it was among other things enacted, that in all matters of controversy relative to property and civil rights, the laws of England should be the rule for the decision of the same, and that all matters relative to testimony and legal proof in the investigation of fact should be regulated by the rules of evidence established in England, but that nothing therein contained should extinguish, release, discharge or affect any right, lawful claim or incumbrance to and upon any lands, tenements or hereditaments within Upper Canada, or should rescind, vacate or affect any contract or security then made and executed conformably to the Laws of Canada under the Imperial Statute passed in the fourteenth year of the reign of His Majesty King George the Third, intituled "*An Act for making more effectual provision for the Government of the Province of Quebec, in North America,*" or vary or interfere with any of the subsisting provisions respecting ecclesiastical rights or dues, or should introduce any of the laws of England respecting the maintenance of the poor, or respecting bankrupts;

Therefore, subject to the exceptions and provisions above recited, Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

The law of
England on
15th Oct.,
1792, to be the
rule of de-
cision.

1. In all matters of controversy relative to property and civil rights, resort shall continue to be had to the laws of England as they stood on the said 15th day of October, 1792, as the rule for the decision of the same, and all matters relative to testimony and legal proof in the investigation of fact and

the forms thereof in the several Courts in Ontario, shall continue to be regulated by the rules of evidence established in England, as they existed on the day and year last aforesaid—except so far as the said laws and rules have been since repealed, altered, varied, modified or affected by any Act of the Imperial Parliament, still having the force of law in Ontario, or by any Act of the late Province of Upper Canada, or of the Province of Canada, or of the Province of Ontario, still having the force of law in Ontario, or by these Revised Statutes. R. S. O. 1887, c. 93, s. 1.

2. The Statutes of Jeofails, of Limitations, and for the amendment of the law, excepting those of mere local expedi-
English Statutes of Jeofails, etc., before 17th Jan., 1822, adopted.
 ency, which previous to the 17th day of January, 1822, had been enacted respecting the law of England and then continued in force, shall be valid and effectual for the same purposes in Ontario, excepting so far as the same have, since the day last aforesaid, been repealed, altered, varied, modified or affected in the manner mentioned in section 1 of this Act. R. S. O. 1887, c. 93, s. 2.

3. The Act passed by the Parliament of the United King-
Thellusson Act to be deemed in force in Ontario.
 dom of Great Britain and Ireland, intituled "*An Act to restrain all Trusts and Directions in Deeds and Wills, whereby the Profits or Produce of Real or Personal Estate shall be accumulated, and the beneficial enjoyment thereof postponed beyond the time therein limited,*" which Act is commonly known as *The Thellusson Act*, is declared to have been and to be in force in Ontario. This section shall not affect any action or other proceeding which was pending on the 23rd day of March, 1889. 52 V. c. 10, s. 2.

CHAPTER 112.

An Act to amend the law relating to Mortmain and Charitable Uses.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. **1.** This Act may be cited as "*The Mortmain and Charitable Uses Act.*" 55 V. c. 20, s. 1.

Application of Act. **2.** So far as this Act applies to wills, the same shall only apply to wills of testators dying on or after the 14th day of April, 1892. 55 V. c. 20, s. 2.

"Land," meaning of. **3.** "Land" in this Act shall include tenements and hereditaments, corporeal and incorporeal, of any tenure; but not money secured on land or other personal estate arising from or connected with land. 55 V. c. 20, s. 3.

Land devised to charity to be sold. **4.** Land may be devised by will to or for the benefit of any charitable use, but, except as hereinafter provided, such land shall, notwithstanding anything in the will contained to the contrary, be sold within two years from the death of the testator, or such extended period as may be determined by the High Court or a Judge thereof in Chambers. 55 V. c. 20, s. 4.

Where land remains unsold after expiration of two years. **5.** So soon as the time limited for the sale of any land under any such devise shall have expired without the completion of the sale of the land, the land shall vest forthwith in the Accountant of the Supreme Court of Judicature for Ontario and the High Court shall cause the same to be sold, or the sale completed, (as the case may be) with all reasonable speed by the administering trustees for the time being thereof; and for this purpose may make orders directing such trustees to proceed with the sale or completion of the sale of such land, or removing such trustees and appointing others, and may provide by any such order or otherwise for the payment of the proceeds of the sale to the said trustees in trust for the charity, and for the payment of the costs and expenses incurred by the said trustees or otherwise in or connected with such sale and proceedings. 55 V. c. 20, s. 5.

6. Any personal estate by will directed to be laid out in the purchase of land to or for the benefit of any charitable uses, shall, except as hereinafter provided, be held to or for the benefit of the charitable uses as though there had been no direction to lay it out in the purchase of land. 55 V. c. 20. s. 6.

Personal estate directed to be laid out in land.

7. The High Court, or a Judge thereof sitting in Chambers, if satisfied that land devised by will to or for the benefit of any charitable use, or proposed to be purchased out of personal estate by will directed to be laid out in the purchase of land, is required for actual occupation for the purposes of the charity, and not as an investment, may by order sanction the retention or acquisition, as the case may be, of such land. 55 V. c. 20, s. 7.

Power to retain land in certain cases.

8. Money charged or secured on land or other personal estate arising from or connected with land, shall not be deemed to be subject to the provisions of the Statutes known as the Statutes of Mortmain or of Charitable Uses as respects the will of a person dying on or after the 14th day of April, 1892, or as respects any other grant or gift made after the said date. 55 V. c. 20, s. 8.

Mortmain Acts not to apply to impure personality.

9. The jurisdiction of the High Court under this Act is to be exercised by a Judge in Chambers or otherwise, and may be exercised in a summary manner so as to avoid all unnecessary expense. 55 V. c. 20, s. 9.

Exercise of jurisdiction of High Court.

10. This Act affects only devises or legacies which prior to the 14th day of April, 1892, would have been void, and shall not be construed as taking away any right prior to that date by statute or otherwise possessed by any corporation; nor shall this Act be construed as expressly or by implication affecting any actions then pending or any question whatever therein. 55 V. c. 20, s. 10.

Act to apply only to legacies otherwise void.

CHAPTER 113.

An Act respecting Crown Debtors.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Bonds, etc.
to the Crown,
to bind only
such property
as would be
bound in other
cases,

1. No bond, covenant or other security made or entered into since the 15th day of August, 1866, or hereafter made or entered into by any person to Her Majesty, Her Heirs or Successors, or to any person on behalf of or in trust for Her Majesty, Her Heirs or Successors, shall bind the real or personal property of the person so making and entering into such bond, covenant or other security, to any further, other or greater extent than if the bond, covenant or other security had been made or entered into between subject and subject of Her Majesty. R. S. O. 1887, c. 94, s. 1.

And so as to
property of
Crown
debtors.

2. The real or personal property of any debtor to Her Majesty, Her Heirs or Successors, or to any person in trust for or on behalf of Her Majesty, Her Heirs or Successors, for any debt since the said date or hereafter contracted, shall be bound only to the same extent and in the same manner as the real or personal property of a debtor where a debt is due from one subject of Her Majesty to another. R. S. O. 1887, c. 94, s. 2.

Crown liens
by registry of
bonds, etc.,
in Q. B. abol-
ished as to
Ontario,

3. From and after the 1st day of January, 1874, lands theretofore bound by the registration, in the office of the Clerk of the Court of Queen's Bench in Toronto, of any deed, bond, contract or other instrument whereby a debt, obligation or duty is incurred or created to Her Majesty, in respect of any matter within the authority of the Government of Ontario, shall be released from the charge created by such registration. R. S. O. 1887, c. 94, s. 3.

except where
proceedings
had already
caused a
charge.

4. Nothing in the last section contained shall be construed to affect the obligations of the parties to such deed, bond, contract or other instrument, to Her Majesty, or to each other, or to release any charge which may have been, previous to the said 1st day of January, obtained against such lands by virtue of any writ or other proceeding. R. S. O. 1887, c. 94, s. 4.

CHAPTER 114.

An Act respecting Escheats and Forfeitures.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where lands, tenements or hereditaments situate in this Province have escheated to the Crown by reason of the person last seised thereof, or entitled thereto, having died intestate, and without lawful heirs, or have become forfeited for any cause except crime, the Attorney-General may cause possession of the lands, tenements or hereditaments to be taken in the name of the Crown; or, in case possession is withheld, he may cause an action to be brought for the recovery thereof, without any inquisition being first necessary. R. S. O. 1887, c. 95, s. 1.

Attorney-General may take possession of, or bring action for recovery of, escheated or forfeited lands without inquest of office.

2. The proceedings in the action may be in all respects similar to those in other actions for the recovery of land. R. S. O. 1887, c. 95, s. 2.

Proceedings.

3. The Lieutenant-Governor in Council may make any grant of lands, tenements or hereditaments, which have heretofore so escheated or become forfeited or hereafter escheat or become forfeited for any cause except crime, or of any portion thereof, or of any interest therein, to any person, for the purpose of transferring or restoring the same to any person or persons having a legal or moral claim upon the person to whom the same had belonged, or of carrying into effect any disposition thereof which such person may have contemplated, or of rewarding any person making discovery of the escheat, or forfeiture, as to the Lieutenant-Governor in Council may seem meet. R. S. O. 1887, c. 95, s. 3.

Lieutenant-Governor may make grants of escheated or forfeited lands.

4. Any such grant may be made without actual entry or inquisition being first made, and although the lands, tenements or hereditaments are not in the actual possession of the Crown, and notwithstanding that some person claims title thereto adversely to the person whose estates the same had been; and in case possession of the lands, tenements, or hereditaments is withheld, the person to whom the grant is

Grant may be made without entry or inquest of office being first found.

made shall thereupon be entitled to institute in any Court of competent jurisdiction proceedings for the recovery of the said lands, tenements or hereditaments. R. S. O. 1887, c. 95, s. 4.

Lieutenant-Governor may release forfeited property or waive the forfeiture.

5. Where a forfeiture takes place of any lands, tenements or hereditaments, or any interest therein, as aforesaid, the Lieutenant-Governor in Council may waive or release any right which the Crown may thereby have become entitled to, so as, by the waiver or release, to vest the property, either absolutely or otherwise, in the persons who would have been entitled thereto but for the forfeiture; and the waiver or release may be either for valuable consideration or otherwise, and may be upon such terms and conditions as to the Lieutenant-Governor in Council may seem fit. R. S. O. 1887, c. 95, s. 5.

Lieutenant-Governor may assign personally to which the Crown has become entitled.

6. The Lieutenant-Governor in Council may make any assignment of personal property to which the Crown is entitled by reason of the person last entitled thereto having died intestate and without leaving any kin or other persons entitled to succeed thereto, or by reason of the same having become forfeited to the Crown, for any cause except crime, or may make an assignment of any portion of such personal property, for the purpose of transferring or restoring the same to any person or persons having a legal or moral claim upon the person to whom the same had belonged, or for carrying into effect any disposition thereof which such person may have contemplated, or of rewarding the person making discovery of the right of the Crown to such property, as to the Lieutenant-Governor in Council may seem meet. R. S. O. 1887, c. 95, s. 6.

[See also Cap. 70, secs. 15 and 16.]

CHAPTER 115.

An Act respecting Voluntary and Fraudulent Conveyances.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows :—

VOLUNTARY CONVEYANCES.

1. Notwithstanding the provisions of the statute passed in the 27th year of the reign of Her late Majesty Queen Elizabeth, and chaptered four, no conveyance, grant, charge, lease, estate, incumbrance, limitation of use or uses which is executed in good faith, and duly registered in the proper registry office before the execution of the conveyance to, and before the creation of any binding contract for the conveyance to any subsequent purchaser from the same grantor of the same lands, tenements or hereditaments, or any part or parcel thereof, or any rent, profit or commodity in or out of the same, shall be or be deemed or taken to be, merely by reason of the absence of a valuable consideration, void, frustrate, or of none effect as against such purchaser, or his heirs, executors, administrators or assigns, or any person claiming by, from, or under any of them. R. S. O. 1887, c. 96, s. 1.

No voluntary conveyance, etc., executed in good faith and duly registered to be void merely for absence of valuable consideration.

2. Nothing in the preceding section contained shall have the effect of making valid any instrument which is for any reason other than or in addition to the absence of a valuable consideration void under the said statute or otherwise; nor shall anything in the preceding section contained have the effect of making valid any instrument as against a purchaser who had, before the 28th day of February, 1868, entered into a binding contract for, or received his conveyance upon such purchase. R. S. O. 1887, c. 96, s. 2.

Instruments otherwise void not to be valid under preceding section.

FRAUDULENT CONVEYANCES.

3. Whereas by the first and second clauses of the Act passed in the 13th year of the reign of Her late Majesty Queen Elizabeth, it is enacted as follows:—

Recital of ss. 1, 2 and 6 of 13 Eliz. c. 5, that certain conveyances, judgments, etc., to be void unless made to a

“For the avoiding and abolishing of feigned, covinous and “fraudulent feoffments, gifts, grants, alienations, conveyances,

bona fide purchaser for value.

"bonds, suits, judgments and executions more commonly used and practised in these days than hath been seen or heard of heretofore, which feoffments, gifts, grants, alienations, conveyances, bonds, suits, judgments and executions have been and are devised or contrived of malice, fraud, covin, collusion or guile, to the end, purpose and intent to delay, hinder and defraud creditors and others of their just and lawful actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, not only to the let or hindrance of the due course and execution of law and justice, but also to the overthrow of all true and plain dealing, bargain and chevissance between man and man, without the which no commonwealth or civil society can be maintained or continued; all and every feoffment, gift, grant, alienation, bargain and conveyance of lands, tenements, hereditaments, goods and chattels, or of any of them, or of any lease, rent, common or other profit or charge out of the same lands, tenements, hereditaments, goods and chattels, or any of them, by writing or otherwise, and all and every bond, writ, judgment and execution, at any time had or made since the beginning of the Queen's Majesty's reign, that now is or at any time hereafter to be had or made to or for any intent or purpose before declared or expressed, shall be from thenceforth deemed and taken only as against that person or persons, his or their heirs, successors, executors, administrators and assigns, and every of them, whose actions, suits, debts, accounts, damages, penalties, forfeitures, heriots, mortuaries and reliefs, by such guileful, covinous and fraudulent devices and practices as is aforesaid, are or shall or might be in any ways disturbed, hindered, delayed or defrauded, to be clearly and utterly void, frustrate and of none effect, any pretence, colour, feigned consideration expressing of use or any other matter or thing to the contrary notwithstanding."

And whereas it is also by the sixth clause of the said Act provided and enacted as follows:

"This Act or anything herein contained shall not extend to any estate or interest in lands, tenements, hereditaments, leases, rents, commons, profits, goods or chattels had, made, conveyed or assured, or hereafter to be had, made, conveyed or assured, which estate or interest is or shall be upon good consideration and *bona fide* lawfully conveyed or assured to any person or persons, or bodies politic or corporate, not having at the time of such conveyance or assurance to them made any manner of notice or knowledge of such covin, fraud or collusion as is aforesaid, anything before mentioned to the contrary thereof notwithstanding."

And whereas there are doubts as to the true construction of the said Act, and it is expedient to declare the true construction of the same;

Therefore it is further enacted as follows:—

1. The first and second clauses of the said Act apply to all instruments executed to the end, purpose and intent in the said clauses set forth, notwithstanding that the same may be executed upon a valuable consideration, and with the intention, as between the parties to the same, of actually transferring to and for the benefit of the transferee the interest expressed to be thereby transferred, unless the same is protected under the sixth clause of the said Act by reason of *bona fides* and want of notice or knowledge on the part of the purchaser.

When
valuable
consideration
and intent to
pass interest
not to avail.

2. This section shall not apply to any instrument executed before the second day of March, 1872. R. S. O. 1887, c. 96, s. 3.

Instruments
not affected.

CHAPTER 116.

An Act respecting Powers of Attorney.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

As to a power of attorney provided expressly to be exercised after decease of constituent.

1. In case a power of attorney for the sale or management of real or personal estate, or for any other purpose, provides that the same may be exercised in the name and on the behalf of the heirs or devisees, executors or administrators of the person executing the same, or provides by any form of words that the same shall not be revoked by the death of the person executing the same, such provision shall be valid and effectual to all intents and purposes, according to the tenor and effect thereof, and subject to such conditions and restrictions, if any, as may be therein contained. R. S. O. 1887, c. 97, s. 1.

Where things done after the decease, etc., of constituents to be valid.

2. Independently of such special provision in a power of attorney, every payment made and every act done under and in pursuance of a power of attorney, or a power, whether in writing or verbal, and whether expressly or impliedly given, or an agency expressly or impliedly created after the death of the person who gave such power or created such agency, or after he has done some act to avoid the power or agency, shall, notwithstanding such death or act last aforesaid, be valid as respects every person party to such payment or act, to whom the fact of the death, or of the doing of such act as last aforesaid, was not known at the time of such payment or act *bona fide* done as aforesaid, and as respects all claiming under such last mentioned person. R. S. O. 1887, c. 97, s. 2.

CHAPTER 117.

An Act respecting the right of Property in Swarms of Bees.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Bees living in a state of freedom shall be the property of the person discovering them, whether he is or is not the proprietor of the land on which they have established themselves. Bees in a state of freedom to be the property of their discoverer.
R. S. O. 1887, c. 98, s. 1.

2. Bees reared and kept in hives shall be private property Bees reared in hives to be private property.
R. S. O. 1887, c. 98, s. 2.

[As to exemption from seizure under execution; see Cap. 77, sec. 2 (7).]

3. Where a swarm of bees leaves a hive the owner may reclaim them, so long as he can prove his right of property therein, and shall be entitled to take possession of them at any place on which the swarm settles, even if such place be on the land of another person, but the owner shall notify the proprietor of such land beforehand and compensate him for all damages. If a swarm settles in a hive which is already occupied, the owner of such swarm shall lose all right of property therein. Rights of owner in case of bees abandoning their hives. Proviso.
R. S. O. 1887, c. 98, s. 3.

4. Any unpursued swarm which lodges on any property whatsoever, without settling thereon, may be secured by the first comer unless the proprietor of the land objects. Unpursued swarms.
R. S. O. 1887, c. 98, s. 4.

5. If the owner of a swarm of bees declines to follow the swarm, and another person undertakes the pursuit, such other person shall be substituted in the rights of the owner, and every swarm which is not followed shall become the property of the proprietor of the land on which it settles, without regard to the place from which it has come. Property where owner declines to follow his bees.
R. S. O. 1887, c. 98, s. 5.

CHAPTER 118.

An Act respecting the rights of Aliens in relation to Real Property.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Aliens to have the same powers as to real estate as subjects of Her Majesty.

1. On and from the 23rd day of November, 1849, every alien shall be deemed to have had and shall hereafter have the same capacity to take by gift, conveyance, descent, devise, or otherwise howsoever, and to hold, possess, enjoy, claim, recover, convey, devise, impart and transmit real estate in this Province, as natural born or naturalized subjects of Her Majesty. R. S. O. 1887, c. 99, s. 1.

Descent of real estate of aliens.

2. The real estate in this Province of an alien dying intestate, shall descend and be transmitted as if the same had been the real estate of a natural born or naturalized subject of Her Majesty. R. S. O. 1887, c. 99, s. 2.

Proviso as to rights before 23rd November, 1849.

3. Nothing herein contained shall alter, impair or affect or be construed to alter, impair or affect in any manner or way whatsoever, any right or title legally vested in or acquired by any person or persons whomsoever before the 23rd day of November, 1849. R. S. O. 1887, c. 99, s. 3.

CHAPTER 119.

An Act respecting the Law and Transfer of Property.

INTERPRETATION, s. 1.

CORPOREAL TENEMENTS TO LIE IN GRANT AS WELL AS LIVERY, s. 2.

FEOFFMENTS TO BE BY DEED AND INNOCENT, s. 3.

WORDS OF LIMITATION UNNECESSARY, s. 4.

RECEIPT IN DEED SUFFICIENT, s. 5.

RIGHTS OF PURCHASER AS TO EXECUTION OF DEED, s. 6.

PARTITION, EXCHANGE, ETC., TO BE BY DEED, ss. 7, 10.

CONTINGENT INTERESTS, ETC., MAY BE DISPOSED OF BY DEED, ss. 8, 10.

WORDS "GRANT" AND "EXCHANGE;" EFFECT OF, ss. 9, 10.

GRANTEES ETC., TO TAKE AS TENANTS IN COMMON AND NOT AS JOINT TENANTS, s. 11.

CONVEYANCE TO INCLUDE WHOLE ESTATE OF GRANTOR, s. 12.

DEEDS OF BARGAIN AND SALE, BY CORPORATIONS, s. 13.

DEEDS OF BARGAIN AND SALE, ENROLMENT UNNECESSARY, s. 14.

PROVISION FOR SALES FREE FROM INCUMBRANCES, s. 15.

PAYMENT INTO, AND APPLICATIONS TO COURT, s. 16.

IMPLIED COVENANTS, s. 17.

POWERS, MODE OF EXECUTION, ETC., ss. 18-20.

AUCTIONS OF ESTATES, ss. 21-26.

RENT CHARGE, EFFECT OF PARTIAL RELEASE, s. 27.

SCINTILLA JURIS NO LONGER NECESSARY, s. 28.

CONTINGENT REMAINDER NOT TO BE DEFEATED BY FORFEITURE, SURRENDER OR MERGER OF PRECEDING ESTATE, s. 29.

IMPROVEMENTS MADE UNDER MISTAKE OF TITLE, ss. 30-32.

PURCHASES OF REVERSIONS, ss. 33-35.

PURCHASER FOR VALUE WITHOUT NOTICE, s. 36.

CONVEYANCE BY A PERSON TO HIMSELF OR TO HIS WIFE, ETC., s. 37.

DEBENTURES OF CORPORATIONS, s. 38.

FRAUDS IN SALES AND MORTGAGES, s. 39.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where the words following occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears: Interpretation.

1. "Land" shall extend to messuages, lands, tenements and hereditaments, whether corporeal or incorporeal, and to any undivided share thereof, and to any estate or interest therein, and to money subject to be invested in the purchase of land or of any interest therein.

2. "Mortgage" shall include every instrument by virtue whereof land is in any manner conveyed, assigned, pledged or charged as security for the repayment of money or money's worth, and to be reconveyed, re-assigned or released on satisfaction of the debt. "Mortgage."

"Mortgagor." 3. "Mortgagor" shall include every person by whom any such conveyance, assignment, pledge or charge as aforesaid is made.

"Mortgagee." 4. "Mortgagee" shall include every person to whom or in whose favour any such conveyance, assignment, pledge or charge as aforesaid is made or transferred.

"Property." 5. "Property" shall include real and personal property, Imp. Act, 44 and any debt, and any thing in action, and any other right 45 V. c. 41. s. 2. or interest.

"Conveyance." 6. "Conveyance" shall include feoffment, grant, assignment, appointment, lease, settlement, and other assurance, and covenant to surrender, made by deed, on a sale, mortgage, demise, or settlement of any property or on any other dealing with or for any property; and "convey" shall have a meaning corresponding with that of conveyance.

"Purchaser." 7. "Purchaser" shall include a lessee or mortgagee, and an intending purchaser, lessee or mortgagee, or other person, who, for valuable consideration, takes or deals for any property; "Purchase." and "purchase" shall have a meaning corresponding with that of purchaser; but sale shall mean only a sale properly so called. R. S. O. 1887, c. 100, s. 1.

Corporeal tenements, etc., deemed to lie in grant, etc. 2. All corporeal tenements and hereditaments shall, as regards the conveyance of the immediate freehold thereof, be deemed to lie in grant as well as in livery. R. S. O. 1887, c. 100, s. 2.

Feoffments unless by deed to be void. 3. A feoffment otherwise than by deed shall be void at law, and no feoffment shall have any tortious operation. R. S. O. 1887, c. 100, s. 3.

Words of limitation unnecessary Imp. Act, sec. 51. 4.—(1) In a deed, or other instrument, it shall not be necessary, in the limitation of an estate in fee simple to use the word heirs; or in the limitation of an estate in tail to use the words heirs of the body; or in the limitation of an estate in tail male or in tail female, to use the words heirs male of the body, or heirs female of the body.

(2) For the purpose of such limitation, it shall be sufficient in a deed, or other instrument, as in a will to use the words in fee simple, in tail, in tail male, or in tail female, according to the limitations intended, or to use any other words sufficiently indicating the limitation intended.

A conveyance without words of limitation passes all the estate, etc. Imp. Act, sec. 63. (3) Where no words of limitation are used, a conveyance shall pass all the estate, right, title, interest, claim and demand, which the conveying parties respectively have, in, to, or on the property conveyed, or expressed or intended so to be, or which they respectively have power to convey in, to, or on the same. This sub-section shall apply only if and as far as a contrary intention does not appear from the conveyance, and shall have

effect subject to the terms of the conveyance and to the provisions therein contained.

(4) This section shall apply only to conveyances made after the 1st day of July, 1886. R. S. O. 1887, c. 100, s. 4.

5. A receipt for consideration money or securities contained in the body of a conveyance shall be a sufficient discharge to the person paying or delivering the same, without any further receipt being indorsed on the conveyance, and shall, in favour of a subsequent purchaser not having notice that the money or other consideration thereby acknowledged to be received was not in fact paid or given wholly or in part, be sufficient evidence of the payment or giving of the whole amount thereof. R. S. O. 1887, c. 100, s. 6.

Receipt in deed sufficient.
Imp. Act, ss. 54, 55.

6. On a sale, the purchaser shall not be entitled to require that the conveyance to him be executed in his presence, or in that of his solicitor, as such; but shall be entitled to have, at his own cost, the execution of the conveyance attested by some person appointed by him, who may, if he thinks fit, be his solicitor. R. S. O. 1887, c. 100, s. 7.

Rights of purchaser as to execution of purchase deed.
Imp. Act, s. 8.

7. A partition and an exchange of land, and a lease required by law to be in writing of land, and an assignment of a chattel interest in land, and a surrender in writing of land not being an interest which might by law have been created without writing, shall be void at law, unless made by deed. R. S. O. 1887, c. 100, s. 8.

Partition or exchange of land, etc., unless by deed to be void.

8. A contingent, an executory, and a future interest, and a possibility coupled with an interest in land, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent, into or upon land, may be disposed of by deed; but no such disposition shall by force only of this Act defeat or enlarge an estate tail. R. S. O. 1887, c. 100, s. 9.

Contingent interests, etc., in land may be disposed of by deed.

9. Neither of the words "grant," or "exchange," in any deed, shall create any warranty or right of re-entry, or covenant by implication except in cases where by any Act in force in Ontario, it is declared that the word "grant" shall have such effect. R. S. O. 1887, c. 100, s. 10.

No implied warranty, etc., to be created by the word "grant" or "exchange."

10. The preceding three sections of this Act shall not extend to any deed, act or thing executed or done, or to any estate, right or interest created before the 1st day of January, 1850, but they shall extend to and have operation and effect on and from that day. R. S. O. 1887, c. 100, s. 11.

Preceding three sections not to extend to deeds, etc., executed before 1st January, 1850.

Grantees, devisees, etc., to take as tenants in common unless it appears they are to take as joint tenants.

11. Where by any letters patent, assurance or will, made and executed after the first day of July, 1834, land has been or is granted, conveyed or devised to two or more persons other than executors or trustees in fee simple, or for any less estate, it shall be considered that such persons took or take as tenants in common, and not as joint tenants, unless an intention sufficiently appears on the face of such letters patent, assurance or will, that they are to take as joint tenants. R. S. O. 1887, c. 108, s. 20.

Conveyance to include all houses, etc., and the reversion, and all the estate, etc.

12.—(1) Every conveyance of land, unless an exception is specially made therein, shall be held and construed to include all houses, out-houses, edifices, barns, stables, yards, gardens, orchards, commons, trees, woods, underwoods, mounds, fences, hedges, ditches, ways, waters, water-courses, lights, liberties, privileges, easements, profits, commodities, emoluments, hereditaments and appurtenances whatsoever, to the lands therein comprised, belonging or in anywise appertaining, or with the same demised, held, used, occupied and enjoyed, or taken or known as part or parcel thereof; and if the same purports to convey an estate in fee, also the reversion or reversions, remainder and remainders, yearly and other rents, issues and profits of the same lands and of every part and parcel thereof, and all the estate, right, title, interest, inheritance, use, trust, property, profit, possession, claim and demand whatsoever, of the grantor, in, to, out of, or upon the same lands, and every part and parcel thereof, with their and every of their appurtenances. R. S. O. 1887, c. 100, s. 12 (1); c. 105, s. 4; c. 106, s. 3; c. 107, s. 4.

(2) Except as to conveyances under the former Acts relating to short forms of conveyances, this section applies only to conveyances made after the 1st day of July, 1886. R. S. O. 1887, c. 100, s. 12 (2).

Corporations aggregate may convey by bargain and sale.

13. Any corporation capable of taking and conveying land in Ontario, shall be deemed to have been and to be capable of taking and conveying land by deed of bargain and sale, in like manner as any person in his natural capacity, subject nevertheless to any general limitations or restrictions and to any special provisions as to holding or conveying real estate which may be applicable to such corporation. R. S. O. 1887, c. 100, s. 13

Enrolment or registration not necessary to validity of deeds of bargain and sale.

This shall not affect priority under Rev. Stat. c. 136.

14. No deed of bargain and sale of land in Ontario, executed subsequently to the 6th day of March, 1834, shall require enrolment or registration to supply the place of enrolment, for the mere purpose of rendering such bargain and sale a valid and effectual conveyance for passing the land thereby intended to be bargained and sold, but this shall not affect any question of priority under *The Registry Act*, or any Act heretofore in force respecting the registration of instruments relating to real estate. R. S. O. 1887, c. 100, s. 14.

15.—(1) Where land subject to any incumbrance, whether immediately payable or not, is sold by the Court or out of Court, the High Court or the Court in which the sale takes place may, if it thinks fit, on the application of any party to the sale, direct or allow payment into Court—in case of an annual sum charged on the land, or of a capital sum charged on a determinable interest in the land—of such amount as, when invested in securities approved by the Court, the Court considers will be sufficient by means of the dividends thereof to keep down or otherwise provide for that charge; and—in any other case of capital money charged on the land—of the amount sufficient to meet the incumbrance and any interest due thereon; but in either case there shall also be paid into Court such additional amount as the Court considers will be sufficient to meet the contingency of further costs, expenses, and interest, and any other contingency except depreciation of investments, not exceeding one-tenth part of the original amount to be paid in, unless the Court for special reasons thinks fit to require a larger additional amount.

Provision for sales free from incumbrances. Imp. Act, s. 5.

(2) Thereupon the Court may, if it thinks fit, and either after or without any notice to the incumbrancer as the Court thinks fit, declare the land to be freed from the incumbrance; and make any order for conveyance, or vesting order, proper for giving effect to the sale; and give directions for the retention and investment of the money in Court.

(3) After notice served on the persons interested in or entitled to the money or fund in Court, the Court may direct payment or transfer thereof to the persons entitled to receive or give a discharge for the same, and generally may give directions respecting the application or distribution of the capital or income thereof. R. S. O. 1887, c. 100, s. 15.

16.—(1) Payment of money into Court shall effectually exonerate therefrom the person making the payment.

Regulations respecting payments into court and applications. Imp. Act, s. 69.

(2) Every application to the Court shall, except where it is otherwise expressed, be made in chambers, and on notice.

(3) On an application by a purchaser, notice shall be served in the first instance on the vendor.

(4) On an application by a vendor, notice shall be served in the first instance on the purchaser.

(5) On any application, notice shall be served on such persons, as the Court thinks fit.

(6) The Court shall have full power and discretion to make such order as it thinks fit respecting the costs, charges or expenses of all or any of the parties to any application. R. S. O. 1887, c. 100, s. 16.

Covenants to be implied.
Imp. Act, 44-45 V. c. 41, s. 7.

17.—(1) In a conveyance made on or after the 1st day of July, 1886, there shall, in the several cases in this section mentioned, be deemed to be included, and there shall in those several cases be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share of subject-matter expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common, that is to say:

On conveyance for value by beneficial owner.
Imp. Act, s. 7.

(a) In a conveyance for valuable consideration, other than a mortgage, the following covenants by the person who conveys, and is expressed to convey, as beneficial owner, namely:

Covenants for right to convey;

Quiet enjoyment;

Freedom from incumbrances; and

Further assurance;

Rev. Stat. c. 124.

According to the tenor and effect of the several and respective forms of covenants for the said purposes set forth in Schedule B to *The Act respecting Short Forms of Conveyances*, and therein numbered 2, 3, 4 and 5, respectively, subject to the directions in the said Schedule contained.

On conveyance of leaseholds for value, by beneficial owner.

(b) In a conveyance of leasehold property for valuable consideration, other than a mortgage, the following further covenant, by the person who conveys, and is expressed to convey, as beneficial owner namely;

Validity of lease.

That, notwithstanding anything by the person who so conveys, made, done, executed or omitted, or knowingly suffered, the lease or grant creating the term or estate for which the land is conveyed is, at the time of conveyance, a good, valid, and effectual lease or grant of the property conveyed, and is in full force, unforfeited, unsurrendered, and in nowise become void or voidable, and that, notwithstanding anything as aforesaid, all the rents reserved by and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under him to be paid, observed, and performed, have been paid, observed and performed, up to the time of conveyance.

(c) In a conveyance, the following covenant by every person who conveys, and is expressed to convey, as trustee or mortgagee, or as personal representative of a deceased person, or as committee of a lunatic so found by inquisition or judicial declaration, or under an order of the Court, which covenant shall be deemed to extend to every such person's own acts only, namely ;

On conveyance by trustee, etc.
Imp. Act, s. 7.

That the person so conveying has not executed, or done, or knowingly suffered, or been party or privy to, any deed or thing, whereby, or by means whereof the subject-matter of the conveyance, or any part thereof is, or may be impeached, charged, affected, or incumbered in title, estate or otherwise, or whereby or by means whereof the person who so conveys is in anywise hindered from conveying the subject-matter of the conveyance or any part thereof, in the manner in which it is expressed to be conveyed.

Against incumbrances.

(2) Where in a conveyance it is expressed that by direction of a person expressed to direct as beneficial owner another person conveys, then the person giving the direction, whether he conveys and is expressed to convey as beneficial owner or not, shall be deemed to convey, and to be expressed to convey as beneficial owner the subject-matter so conveyed by his direction; and a covenant on his part shall be implied accordingly.

On conveyance by direction of beneficial owner.

(3) Where in a conveyance, a person conveying is not expressed to convey as beneficial owner, or as settlor, or as trustee, or as mortgagee, or as personal representative of a deceased person, or as committee of a lunatic so found by inquisition or judicial declaration, or under an order of the Court, or by direction of a person as beneficial owner, no covenant on the part of the person conveying shall be by virtue of this section implied in the conveyance.

Where covenants not implied.

(4) The benefit of a covenant, implied as aforesaid, shall be annexed and incident to and shall go with the estate or interest of the implied covenantee, and shall be capable of being enforced by every person in whom that estate or interest is for the whole or any part thereof from time to time vested.

Enforcing covenants.

(5) A covenant implied as aforesaid, may be varied or extended by deed, and as so varied or extended, shall, as far as may be, operate in the like manner, and with all the like incidents, effects and consequences, as if such variations or extensions were directed in this section to be implied. R. S. O. 1887, c. 100, s. 17.

Variation of covenants.

POWERS.

18. A deed hereafter executed in the presence of, and attested by two or more witnesses in the manner in which deeds

Mode of executing powers.

are ordinarily executed and attested, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by deed or by any instrument in writing, not testamentary, notwithstanding that it is especially required that a deed or instrument in writing, made in exercise of such power, shall be executed or attested with some additional or other form of execution or attestation or solemnity; but this provision shall not operate to defeat any direction in the instrument creating the power that the consent of any particular person shall be necessary to a valid execution, or that any act shall be performed in order to give validity to any appointment, having no relation to the mode of executing and attesting the instrument; and nothing herein contained shall prevent the donee of a power from executing it conformably to the power, by writing or otherwise than by an instrument executed and attested as an ordinary deed, and to any such execution of a power this provision shall not extend. R. S. O. 1887, c. 100, s. 18.

Person to whom a power is given may release or contract not to exercise same.

19. A person to whom a power, whether coupled with an interest or not, is given may by deed release, or contract not to exercise, the power, whether the power was created by an instrument heretofore or hereafter coming into operation. R. S. O. 1887, c. 100, s. 19.

Sale under power not to be avoided by reason of mistaken payment to tenant for life.

Imp. Act 22 23
V. c. 33, s. 13.

20. Where, under a power of sale, a *bona fide* sale is made of an estate, with the timber thereon, or any other articles attached thereto, and the tenant for life, or any other party to the transaction, is by mistake allowed to receive for his own benefit a portion of the purchase money or value of the timber or other articles, it shall be lawful for the High Court upon an action brought or upon application made in a summary way, as the case may require or permit, to declare, that upon payment by the purchaser, or the claimant under him, of the full value of the timber and articles at the time of sale, with such interest thereon as the Court directs, and the settlement of the said principal moneys and interest under the direction of the Court, upon such parties as in the opinion of the Court are entitled thereto, the sale ought to be established; and upon payment and settlement being made accordingly, the Court may declare that the sale is valid, and thereupon the legal estate shall vest and go in like manner as if the power had been duly executed, and the costs of the application, as between solicitor and client, shall be paid by the purchaser or the claimant under him. R. S. O. 1887, c. 100, s. 20.

AUCTIONS OF ESTATES.

Construction of particular words.

21. In construing the next succeeding three sections of this Act,

“Auctioneer,”

1. “Auctioneer” shall mean any person selling by public auction;

2. "Puffer" shall mean a person appointed to bid on the "Puffer," part of the seller. R. S. O. 1887, c. 100, s. 21.

22. Unless in the particulars or conditions of sale by auction of any land it is stated that such land will be sold subject to a reserved price, or to a right of the seller to bid, the sale shall be deemed and taken to be without reserve. R. S. O. 1887, c. 100, s. 22.

When sale shall be deemed without reserve.

23. Upon any sale of land by auction, without reserve, it shall not be lawful for a seller or for a puffer to bid at such sale, or for the auctioneer to take, knowingly, any bidding from the seller or from a puffer. R. S. O. 1887, c. 100, s. 23.

Seller not to bid at unreserved sales.

24. Upon any sale of land by auction, subject to a right for the seller to bid, it shall be lawful for the seller or any one puffer to bid at such auction, in such manner as the seller may think proper. R. S. O. 1887, c. 100, s. 24.

At reserved sales the seller may bid.

25. Nothing in the next preceding four sections contained shall be taken to authorize any seller to become the purchaser at the sale. R. S. O. 1887, c. 100, s. 25.

Seller not authorized to purchase.

26. The next preceding five sections shall not apply to any sale which took place before the 4th day of March, 1868. R. S. O. 1887, c. 100, s. 26.

Application of ss. 21-25.

RENT-CHARGES.

27. The release from a rent-charge of part of the hereditaments charged therewith shall not extinguish the whole rent-charge, but shall operate only to bar the right to recover any part of the rent-charge out of the hereditaments released, without prejudice, nevertheless, to the rights of all persons interested in the hereditaments remaining unreleased, and not concurring in or confirming the release. R. S. O. 1887, c. 100, s. 27.

Release of part of land subject to rent-charge not to be an extinguishment of the charge on the rest, etc. Imp. Act 22-23 V. c. 35, s. 10.

FUTURE AND CONTINGENT USES.

28. Where by any instrument any hereditaments are limited to uses, all uses thereunder, whether expressed or implied by law, and whether immediate or future, or contingent or executory, or to be declared under any power therein contained, shall take effect when and as they arise by force of and by relation to the estate and seisin originally vested in the person seised to the uses; and the continued existence in him or elsewhere of any seisin to uses or *scintilla juris*, shall not be deemed necessary for the support of, or to give effect to future or contingent or executory uses; nor shall any such seisin to uses or *scintilla juris* be deemed to be suspended, or to remain or to subsist in him or elsewhere. R. S. O. 1887, c. 100, s. 28.

Limitation to uses, shall take effect as they arise without continued seisin or *scintilla juris* in the persons originally seised. Imp. Act 23-24 V. c. 38, s. 7.

CONTINGENT REMAINDERS.

Certain contingent remainders not to be defeated by forfeiture, surrender or merger of preceding estate.

29. Every contingent remainder existing on the 2nd day of March, 1877, or created since that day or hereafter, shall be, and every contingent remainder, which existed at any time between the 30th day of May, 1849, and the 2nd day of August, 1851, shall be deemed to have been capable of taking effect, notwithstanding the determination by forfeiture, surrender or merger, of any preceding estate by freehold. R. S. O. 1887, c. 100, s. 29.

IMPROVEMENTS UNDER MISTAKE OF TITLE.

Persons improving lands to have a lien on lands.

30. In every case in which a person makes lasting improvements on land under the belief that the land is his own, he or his assigns shall be entitled to a lien upon the same to the extent of the amount by which the value of the land is enhanced by such improvements; or shall be entitled or may be required, to retain the land if the Court is of opinion or requires that this should be done, according as may, under all the circumstances of the case, be most just, making compensation for the land, if retained, as the Court may direct. R. S. O. 1887, c. 100, s. 30.

As to cases where, from unskilful survey, a person has improved lands afterwards found to belong to his neighbour.

Rev. Stat. c. 181.

31. In case an action for the recovery of land is brought against a person who, after any line or limit has been established according to *The Act respecting the Survey of Lands*, is found, in consequence of unskilful survey, to have improved on lands not his own, the Judge before whom the action is tried shall assess or direct the jury to assess damages for the defendant for any loss he may sustain in consequence of any improvement made before the commencement of the action, and also assess or direct the jury to assess the value of the land to be recovered and if the judgment be for the plaintiff, no writ of possession shall issue until the plaintiff has tendered or paid the amount of such damages, or has offered to release the land to the defendant, provided that the defendant, within one month of the date of the judgment pays or tenders to the plaintiff the value of the land so assessed. R. S. O. 1887, c. 100, s. 31: Rev. Rule 787.

Plaintiff not to have costs from the time defendant offers to give up the lands on receiving the value of his improvements

32. In all cases in which the Judge or the jury before whom such action is tried, assess damages for the defendant as provided in the next preceding section, for improvements made upon land not his own in consequence of unskilful survey, and where it satisfactorily appears that the defendant does not contest the plaintiff's action for any other purpose than to obtain the value of the improvements made upon the land previous to the alteration and establishment of the lines according to law, the Judge before whom the action is tried shall certify such fact upon the record, and thereupon the defendant shall be entitled to the costs of the defence: Provided the

Proviso.

defendant at the time of appearing, gave notice in writing to the plaintiff or his solicitor of the amount claimed for such improvements, and that on payment the defendant or person in possession would surrender the possession to the plaintiff, and that the defendant did not intend at the trial to contest the title of the plaintiff; and if on the trial it be found that notice was not given as aforesaid, or if there is assessed for the defendant a less amount than that claimed, in the notice, or it is found that the defendant had refused to surrender possession of the land after tender made of the amount claimed, then and in such case the Judge shall not certify, and the defendant shall pay costs to the plaintiff; and upon the trial of any action after such notice no evidence shall be required in proof of the title of the plaintiff. R. S. O. 1887, c. 100, s. 32.

Unless the improvements are assessed at less than the sum demanded.

When no proof of plaintiff's title required.

PURCHASES OF REVERSIONS.

33. In the succeeding two sections the word "Purchase" shall mean any kind of contract, conveyance or assignment, under or by which any kind of property may be acquired. R. S. O. 1887, c. 100, s. 33.

"Purchase"—what it shall mean.

34. In case any purchase made before the 4th day of March, 1868, of any reversionary interest in real or personal estate is sought to be opened or set aside on the ground of undervalue, the onus of proving undervalue shall lie upon the person seeking to open or set aside the same. R. S. O. 1887, c. 100, s. 34.

Onus probandi

35. No purchase made after the said date *bona fide*, and without fraud, of any reversionary interest in real or personal estate, shall be opened or set aside on the ground of undervalue. R. S. O. 1887, c. 100, s. 35.

Purchases after March 4, 1868 not affected by undervalue.

PURCHASER FOR VALUE WITHOUT NOTICE.

36. It shall in no case be necessary, in order to maintain the defence of a purchase for value without notice, to prove payment of the mortgage money or purchase money, or any part thereof. R. S. O. 1887, c. 100, s. 36.

Proof of payment of purchase money unnecessary.

ASSIGNMENT TO ASSIGNOR AND ANOTHER OR TO ASSIGNOR'S WIFE.

37. Any property, real or personal, may be conveyed or assigned by a person to himself jointly with another person, by the like means by which it might be conveyed or assigned by him to another person, and may in like manner be conveyed or assigned by a husband to his wife, and by a wife to her husband alone or jointly with another person. R. S. O. 1887, c. 100, s. 5; c. 122, s. 8.

Assignment of property to wife or self and others. Imp. Act. s. 50.

DEBENTURES OF CORPORATIONS TRANSFERABLE.

38.—(1) The bonds or debentures of corporations made payable to bearer, or to any person named therein or bearer, may

Bonds and debentures of corporations.

be transferred by delivery, and if payable to any person or order shall (after general indorsation thereof by such person) be transferable by delivery from the time of the indorsation.

Holder may maintain action.

(2) Any such transfer shall vest the property of such bonds or debentures in the holder thereof to enable him to maintain an action thereon in his own name. R. S. O. 1887, c. 122, s. 9.

[*For Assignments of Choses in Action, see Cap. 51, sec. 58 (5).*]

FRAUDS IN SALES OR MORTGAGES OF PROPERTY.

Liability of vendor or mortgagor for fraudulent concealment of deeds, etc. or falsifying pedigree.
Imp. Acts 22-23 V., c. 35, s. 24, and 23-24 V. c. 38, s. 8.

39. If any seller or mortgagor of land, or of any chattels real or personal, or *choses in action* conveyed or assigned to a purchaser or mortgagee, or the solicitor or agent of any such seller or mortgagor, conceals any settlement, deed, will or other instrument material to the title, or any incumbrance, from the purchaser or mortgagee, or falsifies any pedigree upon which the title depends or may depend, in order to induce him to accept the title offered or produced to him, with intent in any of such cases to defraud, such seller, mortgagor, solicitor or agent shall, irrespective of any criminal liability he may thereby incur, be liable to an action for damages at the suit of the purchaser or mortgagee, or those claiming under the purchaser or mortgagee, for any loss sustained by them or either or any of them, in consequence of the settlement, deed, will or other instrument or incumbrance so concealed, or of any claim made by any person under such pedigree, but whose right was concealed by the falsification of such pedigree; and in estimating such damages where the estate is recovered from such purchaser or mortgagee, or from those claiming under the purchaser or mortgagee, regard shall be had to any expenditure by them, or either or any of them, in improvements on the land. R. S. O. 1887, c. 100, s. 37.

SCHEDULE.

FORM OF CONVEYANCE BY BENEFICIAL OWNER UNDER SECTION 17.

This Indenture made the _____ day of _____, one thousand eight hundred and _____

Between (here insert names of parties and recitals, if any,) Witnesseth, that in consideration of _____ dollars, of lawful money of Canada, now paid by the said grantee to the said grantor (the receipt whereof is by him acknowledged,) he, the said grantor, as beneficial owner, doth convey unto the said grantee in fee simple, (*or otherwise as the case may be*) all, etc., (*parcels*).

In Witness Whereof, the said parties hereto have hereunto set their hands and seals.

R. S. O. 1887, c. 100, Sched.

CHAPTER 120.

An Act respecting Petty Trespasses.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Any person who unlawfully enters into, comes upon, or passes through or in any way trespasses upon any land or premises whatsoever, being wholly enclosed, and being the property of another person, shall be liable to a penalty of not less than \$1 nor more than \$10 for any such offence, irrespective of any damage having or not having been occasioned thereby; and such penalty may be recovered, with costs, in every case of conviction before any one Justice of the Peace, who shall decide the matter in a summary way, and award costs in case of conviction, which may be had either on view or on confession of the party complained against, or on the oath of one credible witness; but nothing herein contained shall extend to any case where the party trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of, or to any case within the meaning of section 511 of *The Criminal Code, 1892*. R. S. O. 1887, c. 101, s. 1.

Penalty for unlawful trespass.
Recovery of penalty.
Proviso.
55-56 V. c. 29, (Dom.)
2. Any person found committing such trespass as aforesaid, may be apprehended without a warrant by any peace officer, or by the owner of the property on which it is committed, or the servant of, or any person authorized by such owner, and be forthwith taken to the nearest Justice of the Peace, to be dealt with according to law. R. S. O. 1887, c. 101, s. 2.

Trespasser may be arrested without warrant.
3. Except as herein otherwise provided, all proceedings under this Act shall be subject to and in accordance with the provisions of *The Ontario Summary Convictions Act*, which shall apply to cases arising under this Act. R. S. O. 1887, c. 101, s. 3.

Procedure. Rev. Stat. c. 90.
4. Nothing in this Act contained shall authorize any Justice of the Peace to hear and determine any case of trespass in which the title to land, or any interest therein or accruing thereupon, shall be called in question or affected in any manner howsoever; but every such case of trespass shall be dealt with according to law in the same manner, in all respects, as if this Act had not been passed. R. S. O. 1887, c. 101, s. 4.

Act not to affect any case involving title to land.

CHAPTER 121.

An Act respecting Mortgages of Real Estate.

INTERPRETATION, s. 1.

PART I., ss. 2-17.

OBLIGATION TO TRANSFER MORTGAGE,
s. 2.

INSPECTION OF TITLE DEEDS, s. 3.

APPLICATION OF INSURANCE MONEY,
s. 4.

IMPLIED COVENANTS, ss. 5-7.

RELEASE OF EQUITY OF REDEMPTION
WITHOUT MERGER, ss. 8-10.

ASSIGNMENT BY EXECUTORS, s. 11.

DISCHARGE OF MORTGAGE MAY BE
MADE AT ANY TIME, s. 12.EFFECT OF ADVANCE ON JOINT AC-
COUNT, s. 13.RECEIPTS OF MORTGAGEE OR SUR-
VIVOR OF TWO OR MORE MORT-
GAGEES, ETC., TO BE EFFECTUAL
DISCHARGES, s. 14.RIGHT OF MORTGAGEE TO DISTRAIN
LIMITED, ss. 15, 16.PAYMENT AFTER DEFAULT WITH-
OUT NOTICE, s. 17.

PART II., ss. 18-30.

POWER OF SALE AND INCIDENTAL
POWERS TO BE IMPLIED, ss. 18-
29.

TAXATION OF COSTS, ss. 30, 32.

PART III., ss. 31-34.

RESTRICTION AS TO PROCEEDINGS ON
MORTGAGES, s. 31.PAYMENT IN TERMS OF NOTICE TO BE
ACCEPTED, s. 32.DEFENCE OF PURCHASE FOR VALUE
WITHOUT NOTICE, s. 33.TIME WITHIN WHICH CERTAIN SALES
MAY BE QUESTIONED, s. 34.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Interpreta-
tion.

1. Where the words following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears—

“Property.”

1. “Property” includes real and personal property, and any debt, and any thing in action, and any other right or interest.

“Land.”

2. “Land” includes tenements and hereditaments, corporeal or incorporeal; and houses and other buildings; also an undivided share in land.

“Convey-
ance.”

3. “Conveyance” includes assignment, appointment, lease, settlement, and other assurance and covenant to surrender, made by deed, on a sale, mortgage, demise, or settlement of any property or on any other dealing with or for any property; and “convey” has a meaning corresponding with that of conveyance.

“Convey.”

“Mortgage.”

“Mortgage
money.”

“Mortgagor.”

4. “Mortgage” includes any charge on any property for securing money or money’s worth; and “mortgage money” means money or money’s worth, secured by a mortgage; and “mortgagor” includes any person from time to time deriving title

under the original mortgagor, or entitled to redeem a mortgage, according to his estate, interest, or right, in the mortgaged property; and "mortgagee" includes any person from time to time "Mortgagee." deriving title under the original mortgagee.

5. "Incumbrance" includes a mortgage in fee, or for a less estate, and a trust for securing money, and a lien, and a charge of a portion, annuity or other capital or annual sum; and "incumbrancer" has a meaning corresponding with that of incumbrance, and includes every person entitled to the benefit of an incumbrance, or to require payment or discharge thereof. "Incumbrance."
"Incumbrancer."
R. S. O. 1887, c. 102, s. 1.

PART I.

2.—(1) Where a mortgagor is entitled to redeem, he shall, by virtue of this Act, have power to require the mortgagee, instead of giving a certificate of payment or re-conveying, and on the terms on which he would be bound to re-convey, to assign the mortgage debt and convey the mortgaged property to any third person, as the mortgagor directs; and the mortgagee shall, by virtue of this Act be bound to assign and convey accordingly. Obligation on mortgagee to transfer instead of re-conveying.
Imp. Act 44 and 45, V. c. 41, s. 15. R. S. O. 1887, c. 102, s. 2 (1).

(2) The right of the mortgagor under this section to require an assignment as aforesaid shall belong to and be capable of being enforced by each incumbrancer, or by the mortgagor, notwithstanding any intermediate incumbrance; but a requisition of an incumbrancer shall prevail over a requisition of the mortgagor, and as between incumbrancers a requisition of a prior incumbrancer shall prevail over a requisition of a subsequent incumbrancer. Imp. Act, 45 and 46 V. c. 39, s. 12. 60 V. c. 15, Sched. A (23).

(3) This section does not apply in the case of a mortgagee being or having been in possession.

(4) This section shall have effect notwithstanding any stipulation to the contrary. R. S. O. 1887, c. 102, s. 2 (2, 3).

3.—(1) A mortgagor, as long as his right to redeem subsists, shall, by virtue of this Act, be entitled from time to time, at reasonable times, on his request, and at his own cost, and on payment of the mortgagee's costs and expenses in this behalf, to inspect and make copies or abstracts of or extracts from the documents of title relating to the mortgaged property in the custody or power of the mortgagee. Power for mortgagor to inspect title deeds.
Imp. Act, 44 and 45 V. c. 41, s. 16.

(2) This section applies only to mortgages made after the 1st day of July, 1886, and shall have effect notwithstanding any stipulation to the contrary. R. S. O. 1887, c. 102, s. 3.

4.—(1) All money payable on an insurance to a mortgagor shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received. Insurance money.
Imp. Act, s. 23.

(2) Without prejudice to any obligation to the contrary imposed by law or by special contract, a mortgagee may require that all money received on an insurance be applied in or towards the discharge of the money due under his mortgage. R. S. O. 1887, c. 102, s. 4.

Covenants to
be implied.
Imp. Act, s. 7.

5. There shall, in the several cases in this section mentioned, be deemed to be included, and there shall in those several cases by virtue of this Act be implied, covenants to the effect in this section stated, by the person or by each person who conveys, as far as regards the subject-matter or share of subject-matter expressed to be conveyed by him, with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common, that is to say:—

On mortgage,
by beneficial
owner.

(a) In a conveyance by way of mortgage, the following covenants by the person who conveys, and is expressed to convey as beneficial owner, namely ;

For payment of the mortgage money and interest, and observance in other respects of the proviso in the mortgage ;

Good title ;

Right to convey ;

That, on default, the mortgagee shall have quiet possession of the land ;

Free from all incumbrances ;

That the mortgagor will execute such further assurances of the said lands as may be requisite ; and

That the mortgagor has done no act to incumber the land mortgaged ;

According to the tenor and effect of the several and respective forms of covenants for the said purposes set forth in Schedule B to *The Act respecting Short Forms of Mortgages*.

Rev. Stat.
c. 126.

On mortgage
of leaseholds,
by beneficial
owner.

(b) In a conveyance by way of mortgage of leasehold property, the following further covenant by the person who conveys, and is expressed to convey, as beneficial owner, namely ;

Validity of
lease.

That the lease or grant creating the term or estate for which the land is held is, at the time of conveyance, a good, valid, and effectual lease or grant of the land conveyed, and is in full force, unforfeited, and unsurrendered, and in nowise become void, or voidable, and that all the rents reserved by, and

all the covenants, conditions and agreements contained in, the lease, or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed, and performed, have been paid, observed and performed, up to the time of conveyance;

And also, that the person so conveying, or the persons deriving title under him, will at all times, as long as any money remains on the security of the conveyance, pay, observe, and perform, or cause to be paid, observed and performed, all the rents reserved by, and all the covenants, conditions and agreements, contained in the lease or grant, and on the part of the lessee or grantee, and the persons deriving title under him, to be paid, observed and performed, and will keep the person to whom the conveyance is made, and those deriving title under him, indemnified against all accidents, proceedings, costs, charges, damages, claims and demands, if any, to be incurred or sustained by him or them, by reason of the non-payment of such rent, or the non-observance or non-performance of such covenants, conditions and agreements, or any of them :
R. S. O. 1887, c. 102, s. 5.

Payment of rent and performance of covenants.

6. In a mortgage, where more persons than one are expressed to convey as mortgagors, or to join as covenantors, the implied covenants on their part shall be deemed to be joint and several covenants by them ; and where there are more mortgagees than one, the implied covenant with them shall be deemed to be a covenant with them jointly, unless the amount secured is expressed to be secured to them in shares or distinct sums; in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him. R. S. O. 1887, c. 102, s. 6.

Implied covenants in mortgages are joint and several.

Imp. Act, s. 28.

7. The preceding two sections apply only to mortgages made after the 1st day of July, 1886. R. S. O. 1887, c. 102, s. 7.

Application of ss. 5, 6.

8. Any mortgagee of freehold or leasehold property, or any assignee of such mortgagee, may take and receive from the mortgagor or his assignee a release of the equity of redemption in such property, or may purchase the same under any judgment or decree or execution without thereby merging the mortgage debt as against any subsequent mortgagee or person having a charge on the same property. R. S. O. 1887, c. 102, s. 8.

Mortgagee of freehold property, etc., may receive a release, etc., without merger of debt.

9. In case such prior mortgagee or his assignee acquires the equity of redemption of the mortgagor in the manner aforesaid, no subsequent mortgagee or his assignees shall be entitled

Where mortgagee acquires equity of redemption,

subsequent mortgagee not entitled to foreclose or sell property without redeeming, etc.

to foreclose or sell such property without redeeming or selling, subject to the rights of such prior mortgagee or his assignee, in the same manner as if such prior mortgagee or his assignee had not acquired such equity of redemption. R. S. O. 1887, c. 102, s. 9.

Priority under registry laws not to be affected.

10. The preceding two sections shall not affect any priority or claim which any mortgagee may have under the registry laws. R. S. O. 1887, c. 102, s. 10.

Executors of mortgagee may assign, etc.

11. Where a person entitled to any freehold land by way of mortgage has departed this life, and his executor or administrator has become entitled to the money secured by the mortgage, or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the mortgagee's estate in the land; and such executor or administrator shall have the same power as to any portion of the lands on payment of some part of the mortgage debt, or on any arrangement for exonerating the estate, or any part of the mortgage lands, without payment of money; and such conveyance, assignment, release or discharge shall be as effectual as if the same had been made by the person having the mortgagee's estate. R. S. O. 1887, c. 102, s. 12; c. 110, s. 16.

Certificate of payment, etc. to be valid, at whatever time given.

12. Every certificate of payment or discharge of a mortgage, or of the conditions therein, or of the lands or of any part of the same, or of any part of the money, by the mortgagee, or his assignee, his heirs, executors, administrators, or assigns, or any one of them, at whatsoever time given, and whether before or after the time limited by the mortgage for payment or performance, shall, if in conformity with *The Registry Act*, be valid, to all intents and purposes whatsoever. R. S. O. 1887, c. 102, s. 13; c. 110, s. 17.

Rev. Stat. c. 136.

Effect of advance on joint account, etc.

Imp. Act 44-45 V. c. 41, s. 61.

13.—(1) Where in a mortgage or an obligation for payment of money, or a transfer of mortgage or of such obligation, the sum, or any part of the sum, advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account, or where a mortgage, or such an obligation, or such a transfer is made to more persons than one, jointly, and not in shares—the mortgage money, or other money or money's worth, for the time being due to those persons on the mortgage or obligation, shall be deemed to be and remain money or money's worth belonging to those persons on a joint account, as between them and the mortgagor or obligor; and the receipt in writing of the survivors or last survivor of them, or of the personal representatives of the last survivor, shall be a complete dis-

charge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

(2) This section applies only if and as far as a contrary intention is not expressed in the mortgage, or obligation, or transfer, and shall have effect subject to the terms of the mortgage, or obligation, or transfer, and to the provisions therein contained.

(3) This section applies only to a mortgage, or obligation, or transfer made after the 1st day of July, 1886. R. S. O. 1887, c. 102, s. 14.

14. The *bona fide* payment of any money to and the receipt thereof by any person to whom the same is payable upon any express or implied trust, or for any limited purpose, and such payment to and receipt by the survivor or survivors of two or more mortgagees or holders, or the executors or administrators of such survivor, or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the security. R. S. O. 1887, c. 102, s. 15. [See also Cap. 129, sec. 9.]

Receipts of trustees, mortgagees, etc., or survivor, to be effectual discharges.

15. The right of a mortgagee to distrain for interest in arrear upon a mortgage, shall be limited to the goods and chattels of the mortgagor, and as to such goods and chattels, to such only as are not exempt from seizure under execution. This section shall not apply to mortgages existing on the 25th day of March, 1886. R. S. O. 1887, c. 102, s. 16.

Right of mortgagee to distrain limited.

16.—(1) As against creditors of any mortgagor or person in possession of mortgaged premises under a mortgage, the right, if any, to distrain upon the mortgaged premises for arrears of interest or for rent, in the nature of or in lieu of interest under the provisions of any mortgage executed after the 23rd day of April, 1887, shall be restricted to one year's arrears of such interest or rent, but this restriction shall not apply unless some one of such creditors shall be an execution creditor, or unless there shall be an assignee for the general benefit of such creditors appointed before lawful sale of the goods distrained, nor unless the officer executing such writ of execution, or such assignee shall, by notice in writing to be given to the person distraining, or his attorney, bailiff, or agent, before such lawful sale, claim the benefit of the said restriction, and in case such notice is so given, the distrainer shall relinquish to the officer or assignee the goods distrained, upon receiving one year's arrears of such interest or rent and his reasonable costs of distress, or if such arrears and costs shall not be paid or tendered he shall sell only so much of the goods distrained as shall be necessary to satisfy one year's

Mortgagee's right of distress limited to one year's interest or rent.

arrears of such interest or rent and the reasonable costs of distress and sale, and shall thereupon relinquish any residue of goods, and pay any residue of moneys, proceeds of goods so distrained, to the said officer or assignee.

Reimbursement of officer or assignee.

(2) Any officer executing a writ of execution, or an assignee who shall pay any money to relieve goods from distress under the next preceding subsection, shall be entitled to reimburse himself therefor out of the proceeds of the sale of such goods.

Notice of sale.

(3) Goods distrained for arrears of interest or rent, as aforesaid, shall not be sold except after such public notice as is now required to be given by a landlord who sells goods distrained for rent. R. S. O. 1887, c. 102, s. 17.

Payment of principal after default.

17.—(1) Where default has been made in the payment of any principal money secured by any mortgage made subsequent to the 1st day of July, 1888, according to the terms and conditions thereof, the same may be paid at any time thereafter without previous notice to the person entitled to receive the same, and without the payment of any interest in lieu of such notice; Provided always, that if in or by the said mortgage or otherwise there has been any express agreement with respect either to such notice or to interest to be paid in lieu thereof, such agreement shall be binding and have the same effect as if this section had not been passed; Provided moreover, that this section shall not be held as applying to any default in the payment of principal money that may have become due or payable only by reason of some default made in the payment of interest money secured or payable by or under any such mortgage, or by reason of some default made in the payment of any instalment of principal money, or any portion of any instalment of principal money secured or payable by or under any such mortgage, but shall be held as applying to any such instalment in respect of which default has been made as aforesaid.

Proviso.

Proviso.

Mortgages made on or prior to July 1st, 1888, not affected.

(2) Any rule, question or matter of law and equity affecting or arising out of any default in the payment of money secured by any mortgage made on or prior to the said 1st day of July, 1888, shall in all respects, and for all purposes, be adjudged and determined as if the provisions of this section had not been enacted. 51 V. c. 15, s. 2.

PART II.

Powers incident to mortgages after default for certain time.

18. Where any principal money is secured or charged by deed executed after the 11th day of March, 1879, on any hereditaments of any tenure, or on any interest therein, the person to whom the money shall, for the time being, be payable, his executors, administrators and assigns, shall, at any time after the expiration of four months from the time when the principal money shall have become payable, according to the terms of the

deed, or after any interest on the principal money shall have been in arrear for six months, or after any omission to pay any premium on any insurance which, by the terms of the deed, ought to be paid by the person entitled to the property subject to the charge, have the following powers, to the same extent (but no more) as if they had been in terms conferred by the person creating the charge, namely:

1st. A power to sell, or concur with any other person in selling, the whole or any part of the property by public auction or private contract, subject to any reasonable conditions he may think fit to make, and to rescind or vary contracts for sale, or buy in and re-sell the property, from time to time, in like manner. Power of sale.

2nd. A power to insure, and keep insured, from loss or damage by fire, the whole or any part of the property (whether affixed to the freehold or not) which is in its nature insurable, and to add the premiums paid for such insurance to the principal money secured at the same rate of interest. Power to insure. R. S. O. 1887, c. 102, s. 18; 51 V. c. 15, s. 3, part.

19. Receipts for purchase money given by the person or persons exercising the power of sale by the preceding section conferred, shall be sufficient discharges to the purchaser, who shall not be bound to see to the application of the purchase money. Receipts for purchase money sufficient discharges. R. S. O. 1887, c. 102, s. 19.

20.—(1) No sale as aforesaid shall be made until after two months' notice in writing has been given to any subsequent incumbrancer, and to the person entitled to the property subject to the charge and to such incumbrance, the notice to be given either personally or at his usual or last place of residence in this Province, which notice may be given at any time after any default in making a payment provided for by the deed. Notice before sale. R. S. O. 1887, c. 102, s. 20 (1); 51 V. c. 15, s. 3, part.

(2) In case of the death of the person entitled subject to the charge, and of his interest therein passing to infant heirs or devisees, the notice shall be given as aforesaid to his executors or administrators, as well as to his heirs or devisees, as the case may be.

(3) The notice for an infant heir is to be served upon his guardian, and is also to be served upon the infant himself, if over the age of twelve years. R. S. O. 1887, c. 102, s. 20 (2-3).

21. When a sale has been effected in professed exercise of the powers hereby conferred, the title of the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that such power has been improperly or irregularly exercised, or that no such notice as aforesaid has been given; but any person dam- Improper sale not to defeat title of purchaser.

nified by any such unauthorized, improper, or irregular exercise of such power, shall have his remedy against the person selling. R. S. O. 1887, c. 102, s. 21.

Form of
notice.

22. The notice of sale may be in the following form or to the following effect :

I hereby require you on or before the day of 18 , (*a day not less than two calendar months from the service of the notice, and not less than six months after the default*) to pay off the principal money and interest secured by a certain indenture dated the day of 18 and expressed to be made between (*here state parties and describe mortgage property*) which said mortgage was registered on the day of (*and if the mortgage has been assigned add: and has since become the property of the undersigned*). And I hereby give you notice that the amount due on the said mortgage for principal, interest, and costs respectively, is as follows : (*set the same forth*).

And unless the said principal money and interest and costs are paid on or before the said day of I shall sell the property comprised in the said indenture under the authority of the Act entitled *An Act respecting Mortgages of Real Estate*.

Dated the day of 18

R. S. O. 1887, c. 102, s. 22 ; 58 V. c. 19, s. 1.

Registration
of notice.

23. The notice of sale of lands may be registered in the registry office of the registry division in which the lands are situate, in the same manner as any other instrument affecting the land, and such registration shall have the same effect, and the duties of the registrar in respect of the same shall be as in the case of any other registered instrument, and the fee to be paid such registrar for registering the same shall be fifty cents. R. S. O. 1887, c. 102, s. 23.

Affidavit for
registration.

24. — 1) The affidavit for the purpose of registering the notice shall be made by the person who served the same, and shall prove the time, place, and manner of such service, and that the copy delivered to the registrar is a true copy of the notice served.

Certified copy
of registered
notice to be
evidence.

(2) A copy of such registered notice and affidavit, certified under the hand and seal of office of the registrar, shall in all cases be received as *prima facie* evidence of the facts therein stated. R. S. O. 1887, c. 102, s. 24.

Application of
purchase
money.

25. The money arising by a sale effected as aforesaid shall be applied by the person receiving the same as follows : firstly, in payment of all the expenses incident to the sale or incurred in any attempted sale ; secondly, in discharge of all interest and costs then due in respect of the charge in consequence whereof the sale was made ; and thirdly, in discharge of all the principal moneys then due in respect of such charge ; and the residue of such money shall be paid to the subsequent incumbrancers according to their priorities, and the balance to the person entitled to the property subject to the charge, his heirs, executors, administrators, or assigns, as the case may be. R. S. O. 1887, c. 102, s. 25.

26. The person exercising the power of sale hereby conferred shall have power by deed to convey or assign to and vest in the purchaser the property sold, for all the estate and interest therein, which the person who created the charge had power to dispose of. R. S. O. 1887, c. 102, s. 26.

Conveyance to the purchaser.

27. At any time after the power of sale hereby conferred shall have become exercisable, the person entitled to exercise the same shall be entitled to demand and recover, from the person entitled to the property subject to the charge, all the deeds and documents in his possession or power relating to the same property, or to the title thereto, which he would have been entitled to demand and recover if the same property had been conveyed, appointed, surrendered, or assigned to and was then vested in him for all the estate and interest which the person creating the charge had power to dispose of; and where the legal estate is outstanding in a trustee, the person entitled to a charge created by a person equitably entitled, or any purchaser from such person, shall be entitled to call for a conveyance of the legal estate to the same extent as the person creating the charge could have called for such a conveyance if the charge had not been made. R. S. O. 1887, c. 102, s. 27.

Owner of charge may call for title deeds and conveyance of legal estate.

28. So much of Part II of this Act as provides for a power to sell shall not apply in the case of a deed which contains a power of sale except as is in the next section provided: and so much of this Act as provides a power to insure shall not apply in the case of a deed which contains a power to insure, nor shall any of the provisions of Part II. of this Act apply to any deed which contains a declaration that Part II. of this Act is not to apply thereto. R. S. O. 1887, c. 102, s. 29; 51 V. c. 15, s. 4. 53 V. c. 27, s. 1.

Provisions as to sale, etc. not to apply in certain cases.

29.—(1) Whenever a mortgage made in pursuance of *The Act respecting Short Forms of Mortgages* contains a power of sale in the form No. 14, in Column One of Schedule B to the said Act, the mortgagee, his heirs, executors, administrators or assigns may, in exercising the said power, in lieu of taking the proceedings provided for by the said form No. 14, Column Two, take proceedings under and have the benefit of the provisions of Part II. of this Act, except that such power shall not be exercised until after at least four months' default and at least two months' notice, or such longer periods as may by the power contained in such mortgage be fixed therefor, and the said Part II. shall apply to a sale made under such power. 51 V. c. 15, s. 4.

Power of sale. Rev. Stat. c. 126.

Mortgagee having power of sale may proceed under this Part.

(2) Whenever a mortgage purporting to be made in pursuance of *The Act respecting Short Forms of Mortgages* contains a power of sale which provides for a sale without notice, the mortgagee, his heirs, executors, administrators or assigns may take proceedings to sell under and sell and have the

When mortgage provides for sale without notice. Rev. Stat. c. 126.

benefit of the provisions of Part II. of this Act as fully and effectually as if the mortgage had not contained a power of sale. This subsection shall be held to apply to all mortgages whether heretofore or hereafter made. 53 V. c. 27, s. 1.

Taxation of costs.

30. The mortgagee's costs may, without an order, be taxed by one of the taxing officers of the Supreme Court of Judicature or by the local master, at the instance of any party interested. R. S. O. 1887, c. 102, s. 28.

PART III.

When demand of payment made or notice of intention to exercise power of sale given, no other proceedings to be taken until expiration of time named in notice or demand, with out order of a judge.

31.—(1) In order to prevent the making of unnecessary and vexatious costs in respect to mortgages, it is hereby enacted that, where pursuant to any condition or proviso contained in a mortgage there has been made or given a demand or notice either requiring payment of the moneys or any part thereof secured by such mortgage, or declaring an intention to proceed under and exercise the power of sale contained in such mortgage, no further proceedings and no action either to enforce such mortgage, or with respect to any clause, covenant or provision therein contained, or the lands or any part thereof thereby mortgaged shall, until after the lapse of the time at or after which, according to such demand or notice, payment of the moneys is to be made, or the power of sale is to be exercised or proceeded under, be commenced or taken unless and until an order permitting the same shall first be had and obtained either from the Judge of a County Court or from a Judge of the High Court.

Proof on which order may be granted.

(2) Such order may be obtained *ex parte*, but only upon such affidavits and proof as will satisfy the Judge that it is reasonable and equitable that the proposed action or proceeding should be allowed to be taken and proceeded with.

Title of affidavit or order.

(3) Such affidavit or order may be entitled as follows:—

In the matter of a mortgage purporting to be made between (*describing the parties thereto as in the mortgage*) and bearing date on the day of

This section not to apply to proceedings to stay waste etc.

(4) This section shall not apply to proceedings to stay waste or other injury to the mortgaged premises, and the costs of any application thereunder shall be in the discretion of the Judge. R. S. O. 1887, c. 102, s. 30.

Payment to be accepted if made in terms of notice.

32. When such demand or notice requires payment of all moneys secured to be paid by or under a mortgage, the party making such demand or giving such notice shall accept and receive payment of the same if made as required by the terms of such notice or demand; and if there be any dispute as to the costs payable by the person by or on whose behalf such payment is either made or tendered then such costs shall, on three clear days' notice to such person by the person claiming

Taxation of costs.

the same, be taxed and ascertained by the clerk of a County Court, or by a local master aforesaid, and thereupon and in such case, if within ten days after said costs have been so taxed and ascertained, payment of said moneys and costs are duly made or tendered to the person entitled thereto, or to his solicitor or agent in that behalf, the same shall be deemed and taken to have been paid or tendered, as the case may be, within the meaning of such notice or demand, and in compliance therewith, R. S. O. 1887, c. 102, s. 31.

33. The purchaser in good faith of a mortgage may to the extent of the mortgage (and except as against the mortgagor, his heirs, executors, or administrators), set up the defence of purchase for value without notice in the same manner as a purchaser of the property mortgaged might do. R. S. O. 1887, c. 102, s. 32.

Purchaser of mortgage may set up defence of purchase for value without notice.

34. No sale made prior to the 23rd day of March, 1888, shall be declared to be invalid on the ground, or by reason only of the same having been made in pursuance of a power of sale contained in a mortgage where such power has been exercised by an assignee of such mortgage instead of the original mortgagee unless within two years after the making of any such sale, proceedings have been taken to declare the same to be invalid or irregular; but nothing in this section contained shall be deemed or construed to confirm any such sale which for any other reason or any other ground might be set aside, or declared irregular or invalid; nor shall anything herein contained affect any proceeding, suit, or matter, adjudged or determined before or pending at the said date or brought within three months thereafter. 51 V. c. 15, s. 5.

Time for questioning sales limited.

CHAPTER 122.

An Act respecting the Assurance of Estates Tail.

INTERPRETATION, s. 1.

ESTATES TAIL NOT TO BE BARRED BY WARRANTY, s. 2.

TENANTS IN TAIL EMPOWERED TO ALIENATE, s. 3.

Power, how to be exercised by tenants in tail, *ex provisione viri*, (under 11 Henry vii. c. 20,) s. 4.

11 Henry vii. c. 20, repealed as to settlements after 1846, s. 5.

Powers not exercisable—

(1) Where reversion is in the Crown, s. 6.

(2) By tenants in tail, after possibility of issue extinct, s. 6.

(3) By heirs expectant, so as to bar expectancies, s. 8.

Power to enlarge base fees, s. 7.

DISPOSITION FOR A LIMITED PURPOSE, s. 9.

PROTECTOR OF THE SETTLEMENT :

Owner of first existing estate prior to estate tail, to be protector, s. 10.

Case of several owners of undivided shares in such estate, s. 11.

Married women when protectors

alone, or jointly with their husbands, s. 12.

Protector as to estates restored or confirmed by settlement, s. 13.

Who not to be protector :

Lessees at rent, s. 14.

Dowresses, bare trustees, heirs, executors, etc., s. 15.

Where owner of prior estate disqualified, s. 16.

Tenant to the *præcipe*, ss. 17, 18.

Bare trustee when to be, s. 19.

Appointment by the settlor, ss. 20, 21.

High Court, when to be, s. 22.

Power of protector, ss. 23-26.

CONFIRMATION OF PRIOR VOIDABLE ESTATE BY DISPOSITION UNDER THIS ACT, s. 27.

ENLARGEMENT OF BASE FEES BY DISPOSITION UNDER THIS ACT, s. 28.

DISPOSITION :

To be by deed, s. 29.

Deed to be registered, s. 30.

MODE OF GIVING PROTECTOR'S CONSENT, AND ITS EFFECT, ss. 31-38.

DISPOSITION OF ENTAILED MONEY, s. 39.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Interpretation.

1.—(1) Where the words and expressions following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :

“Lands.”

“Lands” shall extend to advowsons, rectories, messuages, lands, tenements, rents and hereditaments of any tenure and whether corporeal or incorporeal, and any undivided share thereof ;

“Estate.”

“Estate” shall extend to an estate in equity as well as at law and shall also extend to any interest, charge, lien or incumbrance in, upon or affecting lands, either at law or in equity,

and shall also extend to any interest, charge, lien or incumbrance in, upon or affecting money subject to be invested in the purchase of lands;

“Base fee” shall mean exclusively that estate in fee simple into which an estate tail is converted where the issue in tail are barred, but persons claiming estates by way of remainder or otherwise are not barred; “Base fee.”

“Estate tail,” in addition to its usual meaning, shall mean a base fee into which an estate tail has been converted; “Estate tail.”

“Actual tenant in tail” shall mean exclusively the tenant of an estate tail which has not been barred, and such tenant shall be deemed an actual tenant in tail, although the estate tail may have been divested or turned into a right; “Actual tenant in tail.”

“Tenant in tail” shall mean, not only an actual tenant in tail, but also a person who, where an estate tail has been barred and converted into a base fee, would have been tenant of such estate tail if the same had not been barred; “Tenant in tail.”

“Tenant in tail entitled to a base fee” shall mean a person entitled to a base fee, or to the ultimate beneficial interest in a base fee, and who, if the base fee had not been created, would have been actual tenant in tail; “Tenant in tail entitled to a base fee.”

“Money subject to be invested in the purchase of lands” shall include money, whether raised or to be raised, and whether the amount thereof be or be not ascertained, and shall extend to stocks and funds, and real and other securities, the produce of which is directed to be invested in the purchase of lands, and the lands to be purchased with such money or produce shall extend to lands of any tenure out of Ontario, where such lands or any of them are within the scope or meaning of the trust or power directing or authorizing the purchase. “Money subject to be invested in the purchase of lands.”

(2) Every assurance already made or hereafter to be made, whether by deed, will, private Act of Parliament or Act of the Legislature, or otherwise, by which lands heretofore have been or may hereafter be entailed, or agreed or directed to be entailed, shall be deemed a settlement. Settlement.

(3) Every appointment made in exercise of any power contained in any settlement, or of any other power arising out of the power contained in any settlement, shall be considered as a part of such settlement, and the estate created by such appointment shall be considered as having been created by such settlement. Appointment in exercise of a power under a settlement.

(4) Where such settlement is made by will, the time of the death of the testator shall be considered the time when such settlement was made. Settlement by will to date from testator's death.

(5) But those words and expressions occurring in this section, to which more than one meaning is to be attached, shall not have the different meanings given to them by this section Proviso.

in those cases in which there is anything in the subject or context repugnant to such construction. R. S. O. 1887, c. 103, s. 1.

Estates tail and estates expectant thereon, not to be barred by warranty.

2. All warranties of lands made or entered into by a tenant in tail thereof, shall be absolutely void against the issue in tail, and all persons whose estates are to take effect after the determination or in defeasance of the estate tail. R. S. O. 1887, c. 103, s. 2.

Power to dispose of lands in fee simple or for a less estate, etc.

3. Every actual tenant in tail, whether in possession, remainder, contingency or otherwise, may dispose of, for an estate in fee simple absolute, or for any less estate, the lands entailed, as against all persons claiming the lands entailed by force of any estate tail vested in or which might be claimed by or which, but for some previous act, would have been vested in, or might have been claimed by the person making the disposition, at the time of his making the same, and also as against all persons, including Her Majesty, Her Heirs and Successors, whose estates are to take effect after the determination, or in defeasance of such estate tail; saving always the rights of all persons in respect of estates prior to the estate tail in respect of which such disposition is made, and the rights of all other persons except those against whom such disposition is by this Act authorized to be made. R. S. O. 1887, c. 103, s. 3.

Power of disposition not to be exercised by women tenants in tail *ex reversione viro*, etc.

11 Hen. vii. c. 20.

4. Where, under a settlement made before the 18th day of May, 1846, a woman is tenant in tail of lands within the provisions of the Act passed in the 11th year of the reign of His Majesty King Henry the Seventh, entitled *Certain Alienations made by the wife, of the lands of her deceased husband*, shall be void, the power of disposition hereinbefore contained as to such lands shall not be exercised by her, except with such assent as, if this Act had not been passed, would, under the provisions of the said Act of King Henry the Seventh, have rendered valid a fine or common recovery levied or suffered by her of such lands. R. S. O. 1887, c. 103, s. 4.

11 H. vii. c. 20, not to be in force in Ontario except as to certain lands.

5. Except as to lands comprised in any settlement made before the 18th day of May, 1846, the said Act of the 11th year of the reign of His Majesty King Henry the Seventh shall be of no force in Ontario. R. S. O. 1887, c. 103, s. 5.

Power of disposition not to extend to certain tenants in tail.

34-35 Hen. viii. c. 20.

6. The power of disposition hereinbefore contained shall not extend to tenants of estates tail, who, by the Act passed in the 34th and 35th years of the reign of His Majesty King Henry the Eighth, entitled *An Act to imbar feigned recovery of lands wherein the King is in reversion*, or by any other Act, are restrained from barring their estates tail, or to tenants in tail after possibility of issue extinct. R. S. O. 1887, c. 103, s. 6.

7. In every case in which an estate tail in any lands has been barred and converted into a base fee, the person who, if such estate tail had not been barred, would have been actual tenant in tail of the same lands, may dispose of such lands as against all persons, including Her Majesty, Her Heirs and Successors, whose estates are to take effect after the determination, or in defeasance of the base fee into which the estate tail has been converted, so as to enlarge the base fee into a fee simple absolute, saving always the rights of all persons, in respect of estates prior to the estate tail which has been converted into a base fee, and the rights of all other persons, except those against whom such disposition is by this Act authorized to be made. R. S. O. 1887, c. 103, s. 7.

Power to enlarge base fees saving the rights of certain persons.

8. Nothing in this Act contained shall enable any person to dispose of any lands entailed in respect of any expectant interest which he may have as issue inheritable to any estate tail therein. R. S. O. 1887, c. 103, s. 8.

Issue inheritable not to bar expectancies.

9. If a tenant in tail of lands makes a disposition of the same under this Act, by way of mortgage, or for any other limited purpose, then such disposition shall, to the extent of the estate thereby created, be an absolute bar in Equity, as well as at Law, to all persons as against whom such disposition is by this Act authorized to be made, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected; but if the estate created by such disposition is only an estate *pur autre vie*, or for years absolute or determinable, or if, by a disposition under this Act by a tenant in tail of lands, an interest, charge, lien or incumbrance is created without a term of years absolute or determinable, or any greater estate for securing or raising the same, then such disposition shall, in Equity, be a bar only so far as may be necessary to give full effect to the mortgage, or to such other limited purpose, or to such interests, lien, charge or incumbrance, notwithstanding any intention to the contrary expressed or implied in the deed by which the disposition is effected. R. S. O. 1887, c. 103, s. 9.

Extent of estate created by a tenant in tail by way of mortgage or for any other limited purpose.

10. If at the time there is a tenant in tail of lands under a settlement, and there is subsisting in the same lands, or any of them, under the same settlement, any estate for years, determinable on the dropping of a life or lives, or any greater estate (not being an estate for years) prior to the estate tail, then the person who is the owner of the prior estate, or the first of such prior estates, if more than one, then subsisting under the same settlement, or who would have been so if no absolute disposition thereof had been made (the first of such prior estates, if more than one, being for all the purposes of this Act, deemed the prior estate), shall be the protector of the settlement, so far as regards the lands in which such prior estate is subsisting, and shall, for all the purposes of this Act, be deemed the owner

The owner of the first existing estate under settlement prior to an estate tail under the same settlement to be the protector of the settlement.

of such prior estate, although the same may have been charged or incumbered, either by the owner thereof or by the settlor, or otherwise howsoever, and although the whole of the rents and profits are exhausted, or are required for the payment of the charges and incumbrances on such prior estate, and although such prior estate may have been absolutely disposed of by the owner thereof, or by or in consequence of the bankruptcy or insolvency of such owner, or by any other act or default of such owner; and an estate by the curtesy in respect of the estate tail, or of any prior estate created by the same settlement, shall be deemed a prior estate under the same settlement within the meaning of this section; and an estate by way of resulting use or trust to or for the settlor, shall be deemed an estate under the same settlement, within the meaning of this section. R. S. O. 1887, c. 103, s. 10.

Each of two or more owners of a prior estate to be the sole protector to the extent of his share.

11. Where two or more persons are owners, under a settlement within the meaning of this Act, of a prior estate, the sole owner of which estate, if there had been only one, would in respect thereof have been the protector of such settlement, each of such persons, in respect of such undivided share as he could dispose of, shall, for all the purposes of this Act, be deemed the owner of a prior estate, and shall in exclusion of the other or others of them, be the sole protector of such settlement to the extent of such undivided share. R. S. O. 1887, c. 103, s. 11.

When a married woman alone shall be the protector, and when she and her husband together shall be protector.

12. Where a married woman would, if single, be the protector of a settlement in respect of a prior estate, which is not thereby settled or agreed, or directed to be settled to her separate use, she and her husband together shall, in respect of such estate, be the protector of such settlement, and shall be deemed one owner; but if such prior estate has by such settlement been settled or agreed, or directed to be settled to her separate use, then she alone shall, in respect of such estate, be the protector of such settlement. R. S. O. 1887, c. 103, s. 12.

As to estates confirmed or restored by settlement.

13. Except in the case of a lease hereinafter provided for, where an estate is limited by a settlement, by way of confirmation, or where the settlement merely has the effect of restoring an estate, in either of those cases, such estate shall, for the purposes of this Act, so far as regards the protector of the settlement be deemed an estate subsisting under such settlement. R. S. O. 1887, c. 103, s. 13.

As to leases at rent created by settlement.

14. Where a lease at a rent is created or confirmed by a settlement, the person in whose favour such lease is created or confirmed, shall not, in respect thereof, be the protector of such settlement. R. S. O. 1887, c. 103, s. 14.

No bare trustee, tenant in dower, etc., to

15. No woman in respect of her dower, and except in the case, hereinafter provided for, of a bare trustee under a settle-

ment made on or before the 1st day of July, 1846, no bare trustee, heir, executor, administrator or assign, in respect of any estate taken by him as such bare trustee, heir, executor, administrator or assign, shall be the protector of a settlement. R. S. O. 1887, c. 103, s. 15.

be protector except under sect. 19.

16. Where under a settlement there is more than one estate prior to an estate tail, and the person who is the owner, within the meaning of this Act, of such prior estate, in respect of which, but for the last preceding two sections, or one of them, he would have been the protector of the settlement, is by virtue of such sections, or either of them, excluded from being the protector—then the person (if any) who, if such estate did not exist, would be the protector of the settlement, shall be such protector. R. S. O. 1887, c. 103, s. 16.

Who shall be the protector where the owner of the prior estate is, by the last two sections, excluded.

17. Where on or before the 1st day of July, 1846, an estate under a settlement had been disposed of, either absolutely or otherwise, and either for valuable consideration or not, the person who in respect of such estate would, before the 1st day of January, 1834, have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of the lands entailed by such settlement, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement. R. S. O. 1887, c. 103, s. 17.

Where in the case of the disposition of an estate before the 1st July, 1846, the person to make the tenant to the writ of entry in a recovery shall be the protector.

18. Where any person having, on or before the 1st day of July, 1846, either for valuable consideration or not, disposed of, either absolutely or otherwise, a remainder or reversion in fee in any lands, or created any estate out of such remainder or reversion, would, under this Act, if this section had not been inserted, have been the protector of the settlement by which the lands were entailed in which such remainder or reversion is subsisting, and thereby be enabled to concur in the barring of such remainder or reversion, which he could not have done if he had not become such protector; then the person who, before the 1st day of January, 1834, would have been the proper person to have made the tenant to the writ of entry or other writ for suffering a common recovery of such lands, shall, during the continuance of the estate which conferred the right to make the tenant to such writ of entry or other writ, be the protector of such settlement. R. S. O. 1887, c. 103, s. 18.

Where in the case of the disposition of a reversion on or before the 1st July, 1846, the person to make the tenant to the writ of entry in a recovery shall be the protector.

19. Where, under a settlement of lands made before the 1st day of January, 1834, the person who, if this Act had not been passed, would have been the proper person to make the tenant to the writ of entry or other writ for suffering a common recovery of such lands, for the purpose of barring any estate tail or other estate under such settlement, is a bare trustee, such trustee shall, during the continuance of the estate conferring on him the right

Where a bare trustee, etc.

to make the tenant to such writ of entry or other writ, be the protector of such settlement. R. S. O. 1887, c. 103, s. 19.

Power to any settlor to appoint protector.

20. Any settlor entailing lands may appoint, by the settlement by which the lands are entailed, any number of persons *in esse*, not exceeding three, and not being aliens, to be protector of the settlement, in lieu of the person who would have been the protector if this section had not been inserted, and either for the whole or any part of the period for which such person might have continued protector; and, by means of a power to be inserted in such settlement, to perpetuate, during the whole or any part of such period, the protectorship of the settlement in any one person or number of persons *in esse*, and not being an alien or aliens, whom the donee of the power thinks proper, by deed, to appoint protector of the settlement, in the place of any one person, or number of persons, who may die, or by deed relinquish his or their office of protector; and the person or persons so appointed shall, in case of there being no other person then protector of the settlement, be the protector, and shall, in case of there being any other person then protector of the settlement, be protector jointly with such other person; but the number of the persons to compose the protector by virtue or means of any such appointment, shall never exceed three. R. S. O. 1887, c. 103, s. 20.

Deeds appointing protectors to be registered.

21. Every deed by which a protector is appointed under a power in a settlement, and every deed by which a protector relinquishes his office, shall be void unless registered in the registry office of the registry division wherein the lands referred to lie, within six months after the execution thereof; and the person who, but for the last preceding section, would have been sole protector of the settlement, may be one of the persons to be appointed protector under that section, if the settlor thinks fit, and shall, unless otherwise directed by the settlor act as sole protector, if the other persons constituting the protector have ceased to be so by death or relinquishment of the office by deed, and no other person has been appointed in their place. R. S. O. 1887, c. 103, s. 21.

High Court to be the protector where protector lunatic, etc.

22. If any person, protector of a settlement, is a lunatic, idiot, or of unsound mind, and whether he has been found such by inquisition or not, then the High Court shall be the protector of such settlement, in lieu of the person who is such lunatic or idiot, or of unsound mind, as aforesaid; or, if any person, protector of a settlement, is convicted of treason or felony, or, if a person not being the owner of a prior estate under a settlement, is protector of such settlement, and is an infant; or, if it is uncertain whether such last mentioned person is living or dead—then the High Court shall be the protector of such settlement, in lieu of the person convicted as aforesaid, or of the person who is an infant, or whose exist-

ence cannot be ascertained as aforesaid ; or, if any settlor entailing lands declares, in the settlement by which the lands are entailed, that the person who, as owner of a prior estate under such settlement, would be entitled to be protector of the settlement, shall not be the protector, and does not appoint any person to be protector in his stead, then the said High Court shall, as to the lands in which the prior estate is subsisting, be the protector of the settlement during the continuance of such estate ; or, if in any other case, there is subsisting under a settlement an estate prior to an estate tail under the same settlement, and such prior estate is sufficient to qualify the owner thereof to be protector of the settlement, and there happens at any time to be no protector of the settlement as to the lands in which the prior estate is subsisting, the said High Court shall, while there is no such protector, and the prior estate is subsisting, be the protector of the settlement as to such lands. R. S. O. 1887, c. 103, s. 22.

23. If at the time when any person, actual tenant in tail of lands under a settlement, but not entitled to the remainder or reversion in fee immediately expectant on the determination of his estate tail, is desirous of making under this Act a disposition of the lands entailed, there is a protector of such settlement, then the consent of such protector shall be requisite to enable such actual tenant in tail to dispose of the lands entailed to the full extent to which he is hereinbefore authorized to dispose of the same ; but such actual tenant in tail may, without such consent, make a disposition under this Act of the lands entailed, which shall be good against all persons who, by force of any estate tail vested in or which might be claimed by, or which but for some previous act or default would have been vested in or might have been claimed by, the person making the disposition at the time of his making the same, may claim the lands entailed. R. S. O. 1887, c. 103, s. 23.

Where there is a protector, his consent requisite to enable an actual tenant in tail to create a larger estate than a base fee.

24. Where an estate tail has been converted into a base fee in such case, so long as there is a protector of the settlement by which the estate tail was created, the consent of such protector shall be requisite to enable the person who would have been tenant of the estate tail if the same had not been barred, to exercise, as to the lands in respect of which there is such protector, the power of disposition hereinbefore contained. R. S. O. 1887, c. 103, s. 24.

Where a base fee and a protector, his consent requisite to the exercising of a power of disposition.

25. Any device, shift, or contrivance by which it is attempted to control the protector of a settlement in giving his consent, or to prevent him in any way from using his absolute discretion in regard to his consent, and also any agreement entered into by the protector of a settlement to withhold his consent, shall be void ; and the protector of a settlement shall not be deemed to be a trustee in respect of his power of consent ; and no Court shall control or interfere to restrain the

The protector to be subject to no control in the exercise of his power of consenting.

exercise of his power of consent, or treat his giving consent as a breach of trust. R. S. O. 1887, c. 103, s. 25.

Certain rules of equity not to apply between the protector and a tenant in tail.

26. The rules of equity in relation to dealings and transactions between the donee of a power and any object of the power in whose favour the same may be exercised, shall not be held to apply to dealings and transactions between the protector of a settlement and a tenant in tail under the same settlement, upon the occasion of the protector giving his consent to a disposition by a tenant in tail under this Act. R. S. O. 1887, c. 103, s. 26.

A voidable estate by a tenant in tail in favour of a purchaser confirmed by a subsequent disposition of such tenant in tail under this Act, but not against a purchaser for value without notice.

27. Where a tenant in tail of lands under a settlement has created in such lands, or any of them, a voidable estate in favour of a purchaser for valuable consideration and afterwards, by any assurance other than a lease not requiring enrolment, makes a disposition, under this Act, of the lands in which such voidable estate has been created, or any of them, such disposition, whatever its object may be, and whatever may be the extent of the estate intended to be thereby created, shall, if made by the tenant in tail with the consent of the protector (if any) of the settlement, or by the tenant in tail alone, if there be no such protector, have the effect of confirming such voidable estate in the lands thereby disposed of to its full extent as against all persons except those whose rights are saved by this Act; but if, at the time of making the disposition, there is a protector of the settlement, and such protector does not consent to the disposition, and the tenant in tail is not without such consent capable under this Act of confirming the voidable estate to its full extent, then such disposition shall have the effect of confirming such voidable estate so far as such tenant in tail would then be capable under this Act of confirming the same without such consent; but if such disposition is made to a purchaser for valuable consideration, not having express notice of the voidable estate, then and in such case the voidable estate shall not be confirmed as against such purchaser and the person claiming under him. R. S. O. 1887, c. 103, s. 27.

Base fees when united with the immediate reversions enlarged instead of being merged.

28. If a base fee in any lands, and the remainder or reversion in fee in the same lands, were on the 18th day of May, 1846, or at any time since have been, or after this Act takes effect are united in the same person, and there is no intermediate estate between the base fee and the remainder or reversion, then the base fee shall not merge, but shall be *ipso facto* enlarged into as large an estate as the tenant in tail, with the consent of the protector, if any, might have created by any disposition under this Act, if such remainder or reversion had been vested in any other person. R. S. O. 1887, c. 103, s. 28.

Tenant in tail may make a disposition by deed but not by will or contract.
44 V. c. 5.

29. Every disposition of lands under this Act by a tenant in tail thereof shall be effected by some one of the assurances (not being a will) by which such tenant in tail could, before *The Ontario Judicature Act, 1881*, have made the disposition if

his estate were an estate at law in fee simple absolute; but no disposition by a tenant in tail shall be of any force, under this Act, unless made or evidenced by deed; and no disposition by a tenant in tail resting only in contract, either express or implied, or otherwise, and whether supported by a valuable or meritorious consideration or not, shall be of any force under this Act, notwithstanding such disposition is made or evidenced by deed. R. S. O. 1887, c. 103, s. 29.

30. No assurance by which any disposition of lands is effected under this Act by a tenant in tail thereof (except a lease for any term not exceeding twenty-one years, to commence from the date of such lease, or from any time not exceeding twelve months from the date of such lease, where a rent is thereby reserved, which, at the time of granting such a lease is rack-rent, or not less than five-sixth parts of a rack-rent) shall have any operation under this Act unless it is registered in the registry office of the registry division wherein the lands referred to lie, within six months after the execution thereof. R. S. O. 1887, c. 103, s. 30.

Assurances by a tenant in tail, other than certain leases to be inoperative unless registered within six months.

31. The consent of a protector of a settlement to the disposition under this Act of a tenant in tail, shall be given either by the same assurance by which the disposition is effected, or by a deed distinct from the assurance, and executed either on or at any time before the day on which the assurance is made, otherwise the consent shall be void. R. S. O. 1887, c. 103, s. 31.

Consent of protector to be at same time or previous to assurance.

32. If the protector of a settlement gives his consent to the disposition of a tenant in tail by a distinct deed, it shall be considered that such protector has given an absolute and unqualified consent, unless in such deed he refers to the particular assurance by which the disposition is effected, and confines his consent to the disposition thereby made. R. S. O. 1887, c. 103, s. 32.

If by distinct deed, to be deemed unqualified unless otherwise expressed.

33. The protector of a settlement, who, under this Act has given his consent to the disposition of a tenant in tail, shall not revoke such consent. R. S. O. 1887, c. 103, s. 33.

Protector not to revoke his consent.

34. A married woman, being, either alone or jointly with her husband, protector of a settlement, may, under this Act in the same manner as if she were a *feme sole*, give her consent to the disposition of a tenant in tail. R. S. O. 1887, c. 103, s. 34.

A married woman protector.

35. The consent of the protector of a settlement to the disposition of a tenant in tail shall, if given by a deed distinct from the assurance by which the disposition is effected by the tenant in tail, be void, unless such deed is registered in the registry office of the registry division wherein the lands referred to lie, either at or before the time of the registry of the assurance. R. S. O. 1887, c. 103, s. 35.

Consent by distinct deed void, unless registered with or before assurance.

Equitable jurisdiction of the Courts excluded from giving any effect to dispositions in tail, etc.

36 V. c. 8.

36. In cases of disposition of lands under this Act by tenants in tail thereof, and also in cases of consents by protectors of settlements to dispositions of lands under this Act by tenants in tail thereof, the equitable jurisdiction of the Courts shall be altogether excluded, either on the behalf of a person claiming for a valuable or meritorious consideration, or not, in regard to the specific performance of contracts and the supplying of defects in the execution either of the powers of disposition given by this Act to tenants in tail, or of the powers of consent given by this Act to protectors of settlements, and the supplying under any circumstances of the want of execution of such powers of disposition and consent respectively, and in regard to giving effect in any other manner to any act or deed by a tenant in tail or protector of a settlement, which in a Court of Law, before the passing of the *The Administration of Justice Act of 1873*, would not, but for the provisions conferring equitable jurisdiction on Courts of Law enacted by the said Act, and re-enacted in the Revised Statutes, 1877, be an effectual disposition or consent within the meaning of this Act; and no disposition of lands under this Act by a tenant in tail thereof in Equity, and no consent by a protector of a settlement to a disposition of land under this Act by a tenant in tail thereof in Equity, shall be of any force, unless such disposition or consent would have been, in case of an estate tail at Law, before the said Administration of Justice Act, an effectual disposition or consent within the meaning of this Act in a Court of Law, but for the provisions aforesaid. R. S. O. 1887, c. 103, s. 36.

When the High Court may consent to a disposition by a tenant in tail, and make such orders as are thought necessary.

37. In every case in which the High Court is the protector of a settlement, such Court, while protector of such settlement, shall, on motion or petition in a summary way by a tenant in tail under such settlement, have full power to consent to a disposition, under this Act, by such tenant in tail; and the disposition to be made by such tenant in tail upon such motion or petition as aforesaid, shall be such as may be approved of by the said Court, and the said Court may make such orders in the matter as may be thought necessary; and if such Court, in lieu of any such person as aforesaid, is the protector of a settlement, and there is any other person protector of the same settlement jointly with such person as aforesaid, then and in every such case the disposition by the tenant in tail, though approved of as aforesaid, shall not be valid, unless such other person, being protector as aforesaid, consents thereto in the manner in which the consent of the protector is by this Act required to be given. R. S. O. 1887, c. 103, s. 37.

Order of the High Court to be evidence of consent.

38. In every case in which the High Court is the protector of a settlement, no document or instrument, as evidence of the consent of such protector to the disposition of a tenant in tail under such settlement, shall be requisite beyond the order in obedience to which the disposition has been made. R. S. O. 1887, c. 103, s. 38.

39. Lands to be sold, whether freehold or leasehold, or of any other tenure, where the money arising from the sale thereof is subject to be invested in the purchase of lands to be settled, so that any person, if the lands were purchased, would have an estate tail therein, and also money subject to be invested in the purchase of lands to be settled, so that any person, if the lands were purchased, would have an estate tail therein, shall, for all the purposes of this Act, be treated as the lands to be purchased, and be considered subject to the same estates as the lands to be purchased would, if purchased, have been actually subject to; and all the previous sections in this Act, so far as circumstances will admit, shall, in the case of the lands to be sold as aforesaid being either freehold or leasehold, or of any other tenure, apply to such lands in the same manner as if the lands to be purchased with the money to arise from the sale thereof were directed to be freehold, and were actually purchased and settled; and shall, in case of money subject to be invested in the purchase of lands to be so settled as aforesaid, apply to such money in the same manner as if such money were directed to be laid out in the purchase of freehold lands, and such lands were actually purchased and settled; except that in every case, where under this section a disposition is to be made of leasehold lands for years absolute or determinable, so circumstanced as aforesaid, or of money so circumstanced as aforesaid, such leasehold lands or money shall, as to the person in whose favour or for whose benefit the disposition is made, be treated as personal estate, and the assurance by which the disposition of such leasehold lands or money is effected shall be an assignment by deed, which shall have no operation under this Act unless registered in the registry office of the registry division in which the lands therein referred to lie, within six months after the execution thereof. R. S. O. 1887, c. 103, s. 39.

Mode of disposition of money subject to be invested in lands to be entailed.

CHAPTER 123.

An Act respecting the Partition and sale of
Real Estate.

SHORT TITLE, s. 1.	PROCEEDINGS IN DEFAULT OF ANSWER, s. 34.
INTERPRETATION, s. 2.	PETITIONERS TO PROVE TITLE, s. 35.
JURISDICTION OF HIGH COURT, s. 3.	PARTITION, BY REAL REPRESENTATIVE, ss. 36-39.
REAL REPRESENTATIVE, ss. 4, 62.	SALE, WHEN MAY BE HAD, AND PROCEEDINGS, ss. 35, 40-43.
PARTITION COMPULSORY ON JOINT TENANTS, ETC., s. 5.	Reference as to incumbrances, ss. 44-46.
COURTS IN WHICH PROCEEDINGS MAY BE INSTITUTED, s. 6.	Payment of incumbrances, ss. 47, 48.
Removal of proceedings, s. 7.	Payments to tenants by the curtesy or in dower, etc., ss. 49, 50.
PETITION FOR PARTITION, FORM OF, PARTIES, ETC., ss. 8-11.	Notice of sale, s. 51.
GUARDIANS FOR INFANTS AND PER- SONS UNHEARD OF FOR THREE YEARS, ss. 12-20.	ESTATES OF PERSONS UNDER DIS- ABILITY TO BE BOUND, s. 52.
INCUMBRANCERS, HOW MADE PARTIES, s. 21.	EVIDENCE OF JUDGMENT, s. 53.
SERVICE OF PETITION :	DEED, CONTENTS, EXECUTION, AND EFFECT, s. 54.
In cases of parties in Ontario, s. 22.	APPORTIONMENT OF COSTS, s. 55.
In cases of parties unknown or without Ontario, ss. 23-27.	APPLICATION OF PROCEEDS, s. 56.
ALLOWANCE OF PETITION, ss. 28-30.	SECURING PURCHASE MONEY, ss. 57-61.
ANSWERING PETITION, ss. 31, 32.	MISCELLANEOUS, ss. 62-70.
TRIAL OF ISSUES, s. 33.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Partition Act.*" R. S. O. 1887, c. 104, s. 1.

Interpre- 2. Where the following words occur in this Act they shall
tation. be construed in the manner hereinafter mentioned, unless a
contrary intention appears—

"Land." 1. "Land" and "Lands" shall include lands, tenements,
and hereditaments, and all estates and interests therein ;

"Petitioner,"
"Plaintiff." 2. "Petitioner" or "Plaintiff" shall include all parties
petitioning by virtue of this Act; and all parties, or those
made parties to the proceedings under this Act (other than the
plaintiffs or petitioners), shall be defendants. R. S. O. 1887,
c. 104, s. 2.

3. In regard to the partition and sale of estates of joint-tenants, tenants in common and coparceners, the High Court, in addition to the powers hereinafter conferred, shall possess the same jurisdiction as by the laws of England on the 10th of August, 1850, was possessed by the Court of Chancery in England, and also as by the laws in force in Ontario, was possessed by the Courts of Queen's Bench and Common Pleas. R. S. O. 1887, c. 104, s. 3.

Jurisdiction
of High Court.

4. The Judge of the Surrogate Court in every county shall be the real representative for all real property within the county, in respect of or to which any person being seised of, or entitled to any estate in fee simple therein, dies intestate, and for all other purposes hereinafter mentioned. R. S. O. 1887, c. 104, s. 4.

Judge of Surrogate Court
to be real representative.

5. All joint tenants, tenants in common, and co-parceners, all dowresses, and parties entitled to dower, tenants by the curtesy, mortgagees or other creditors having liens on, and all parties whosoever interested in, to or out of, any lands in Ontario, may be compelled to make or suffer partition or sale of the said lands, or any part or parts thereof, as hereinafter mentioned and provided, and the partition may be had whether the estate is legal and equitable, or equitable only. R. S. O. 1887, c. 104, s. 5.

All parties
having interest or lien may
be compelled
to make partition
or sale.

6. Where the lands are situate in two or more counties, the proceedings shall be instituted in the High Court, and where the lands are situate in one county only, the proceedings may be instituted in the County Court of the county, or in the High Court. R. S. O. 1887, c. 104, s. 6.

In what Court
proceedings to
be instituted.

7. The proceedings, upon petition, if commenced in a County Court, may at any time before judgment be removed into the High Court by order of *certiorari*, to be made by a Judge of the Court, on security being given by the party applying for the *certiorari*, for the costs of the proceedings on petition, to the satisfaction of the Judge; and upon any final judgment, decree or order, an appeal may be had by any of the parties interested, in the same manner, and with the same consequences, as in other cases of appeal from the decision of any Court rendering such judgment, decree or order. R. S. O. 1887, c. 104, s. 7.

Proceedings
removable
from County
Court to High
Court.

8. Any party interested in any land in this Province, or the duly authorized agent of such party, or the guardian (duly appointed by a Surrogate Court) of an infant entitled to the immediate possession of any estate therein, may file a petition in either of the Courts aforesaid, praying that partition of such lands may be made, or that the same may be sold under the directions of the Court wherein the proceedings are taken, or of a Judge thereof, if such sale be considered by the said Court or Judge more advantageous to the parties

Any parties
interested may
petition for
partition or
sale.

interested; but no proceedings shall be taken under this Act until one year next after the decease of the testator or party dying intestate, in whom the lands or estate in lands to be so partitioned or sold was vested. R. S. O. 1887, c. 104, s. 8.

Entitling proceedings.

9. All proceedings under this Act shall be entitled in the Court in which the same are instituted, and shall be further described as follows:

“In the matter of partition between *A. B. (naming the petitioner, or if more than one, naming all the petitioners in full)*, plaintiff (or plaintiffs), and *C. D. (naming every then known party having any legal estate in the lands other than the petitioners)* defendants.”

R. S. O. 1887, c. 104, s. 9.

Every person having an interest shall be made party.

What petition shall set forth.

10. Every party having, at the time of filing the petition, any interest as aforesaid, shall be made a party to the partition proceedings; and the petition shall particularly describe the lands sought to be partitioned or sold, and shall also set forth the interest of the petitioner or petitioners therein, and his, or their respective place or places of residence and occupation, and the estate, rights and titles of all parties interested therein in anywise whatsoever, so far as the same are known to the party or parties petitioning as aforesaid; and in case one or more of such parties, or the share or extent of interest, or estate in the said lands of any party interested, is or are unknown to the petitioner or petitioners, he or they shall set forth that fact in the petition. R. S. O. 1887, c. 104, s. 10.

Petition to be verified by oath.

11.—(1) The statements of the petition, shall be verified by the oath or affirmation of at least one petitioner, or his agent or guardian, as the case may be. The oath or affirmation may be taken before a Judge of any of the said Courts, a Commissioner for taking affidavits therein, or a Notary Public.

Service on official guardian.

(2) Subject to Rules of Court service on the official guardian shall be good service on any infant defendant resident in Ontario and if in such case there is more than one infant defendant, for whom service is to be made on the official guardian, one copy only need be served upon such guardian.

Duty of official guardian.

(3) From the time of such service the official guardian shall become and be the guardian *ad litem* of the infant unless and until the Court otherwise orders; and it shall be his duty forthwith to attend actively to the interests of the infant in the action, and for that purpose to communicate with all proper parties, including the father or guardian (if any) of the infant, and also the person with whom or under whose care the infant resides, in case such person is not the infant's father or guardian; and the said official guardian is to make such other inquiries and to take such other proceedings as the interests of the infant may require. R. S. O. 1887, c. 104, s. 11.

12. In case any of the parties interested, other than a petitioner by guardian, is an infant, and the petition is not served on the official guardian under the preceding section, and in case it is proved to the satisfaction of the Court or a Judge that at least fourteen days' notice has been served on the infant, if resident in the Province of Ontario, or otherwise served as hereinafter provided, that proceedings will be taken under this Act for the partition or sale of the lands, and that the Court or Judge will be applied to, at the time and place specified in the notice, to appoint a guardian to represent the infant in the proceedings, the Court or Judge shall and may thereupon, whether the said infant resides within or without the Province, appoint a suitable and disinterested person to be a guardian for the infant for the special purpose of taking charge of the interests of the infant in the proceedings upon the petition. R. S. O. 1887, c. 104, s. 12.

In case party interested be an infant and official guardian not served.

13. Every guardian appointed under the preceding section, unless he is the official guardian, shall, before entering upon his duties, execute to the real representative of the county wherein the estate, or any part thereof, is situate, by his name of office as Surrogate Judge and real representative for the county, and his successors in office, and according to the terms of the rule or order appointing the guardian, a bond in such penalty, and with such sureties as the Court in which the proceedings are to be taken, or a Judge thereof presiding in Chambers, directs, and to be allowed by an officer of the Court to be named in the order, upon proper proof of the sufficiency thereof, conditioned for the faithful discharge of the trust committed to the guardian, and to render a just and true account of his guardianship when required by the Court or a Judge thereof, and upon such further conditions as the Court or Judge may direct; and no proceedings shall be taken upon the petition until the bond has been filed in the office wherein the petition has been filed. R. S. O. 1887, c. 104, s. 13.

Guardian to enter into a bond with sureties.

14. After the execution and filing of the bond, the guardian shall represent the infant in the proceedings upon the petition; and his acts in relation thereto shall be binding on the infant, and shall be as valid as if done by the infant after having arrived at full age. R. S. O. 1887, c. 104, s. 14.

Guardian to represent infant.

15. It shall be necessary that everything be proved against the infant, and it shall not be competent for a guardian to give any consent on behalf of an infant, but the Court or Judge may, on behalf of an infant, where it is deemed advisable in the interest of the infant, consent to the proceeding. R. S. O. 1887, c. 104, s. 15.

Proof against and consent on behalf of infant.

16. If any party interested in the estate respecting which proceedings are, or are proposed to be, taken under this Act, has

Appointment of guardian to estate of person unheard of for three years.

not been heard of for three years or upwards, and it is a matter of uncertainty whether such party is living or dead, it shall be competent for a Judge to appoint a suitable and disinterested person to be a guardian, for the special purpose of taking charge of the interest of the said party and of those who, in the event of his being dead, are entitled to his share or interest in the estate. R. S. O. 1887, c. 104, s. 16.

Application to
appoint guar-
dian

17. The application may be made by any one interested in the said estate, and the Judge making the appointment may give such directions as may be necessary for the execution of sufficient bonds which shall be entered into by the guardian so appointed, with sureties in the manner provided by section 13 of this Act. R. S. O. 1887, c. 104, s. 17.

Powers of
such guardian.

18. After the execution and filing of the bond, the guardian shall, in the proceedings, represent the said party, and those who, should he be dead, are entitled to his share or interest in the estate, and whether they or any of them are infants or otherwise under disability; and his acts in relation to such share or interest shall be binding on such party, and all others claiming or entitled to claim under or through him, and shall be as valid as if done by him or them. R. S. O. 1887, c. 104, s. 18.

Power of the
Court to deal
with the
estate.

19. It shall be competent for the Court in which the proceedings are taken, upon proof of such long continued absence of the said party as affords reasonable ground for believing him to be dead, upon the application of the guardian, or any one interested in the estate represented by the guardian, to deal with the estate or interest of such party, or the proceeds thereof, and order the payment of the proceeds, or the income or produce thereof, to the person who, in the event of the said party being regarded as dead, appears entitled to the same. R. S. O. 1887, c. 104, s. 19.

Guardian may
apply to the
Court for
guidance.

20. Any guardian appointed under this Act shall be at liberty to apply to the Court from time to time, for direction and guidance in the management of the estate, and for compensation for his services in connection therewith; and the Court, or Judge may make all such orders, and give such directions in reference thereto, as appear just. R. S. O. 1887, c. 104, s. 20.

Incumbran-
cers may be
made parties
after proceed-
ings com-
menced.

21.—(1) It shall not be compulsory, in the first instance, to make any person having a lien, on the estate, or any part thereof, by decree, mortgage or otherwise, a party to the proceedings, but the petitioner may make such creditor a party, and, in such case, the petition shall set forth the nature of the lien or incumbrance; and if the lien or incumbrance is on the undivided interest or estate of any of the parties to the petition, it shall be a lien only on the share of such party; and such share

or estate, as the case may be, shall be first charged with its just proportion of the costs of the proceedings in partition in preference to any such lien.

(2) If the person having the lien is not made a party to the proceedings, his lien shall not be impaired or affected thereby. R. S. O. 1887, c. 104, s. 21.

22.—(1) In cases where all the parties interested, or known to be interested, in the estate respecting which the proceedings are taken under this Act, are residents, of the Province or happen, for the time being, to be in the Province, a copy of the petition, with notice that the same will be presented to the Court wherein the proceedings are taken, or a Judge thereof presiding in Chambers, on some day and hour to be named therein, shall be personally served thirty clear days previous to the day of presenting the same as aforesaid, on all the parties, whether infants or not, resident or being as aforesaid in the Province, who are interested in the lands and estate in question, or on any duly authorized agent of any of the parties interested in the estate.

How petition served when all parties in Ontario.

(2) Every such notice shall be addressed to all the parties interested who are known, and generally to all others who are unknown, having or claiming any interest in the estate, or whom it may concern.

(3) It shall not be necessary to serve the petition or notice upon a guardian appointed as aforesaid, if the same has been previously served upon the infant for whom the guardian has been appointed. R. S. O. 1887, c. 104, s. 22.

23.—If any parties having such interest are unknown, or if known, reside out of the Province, or cannot be found therein, and have no known agent or attorney residing therein, the petition and notice may be served upon them, or any of them, by publication of a notice which shall set forth the names of the plaintiffs and defendants, and shall be directed to the defendants and to all unknown persons having or claiming any interest in the land, and describing it as it is described in the petition, and stating the Court to which, and the time and place when and where, the petition will be presented, and calling upon all persons then and there to appear and state what claims, if any, they have to the land, and stating that in default of their so appearing the matter will be proceeded with in their absence. R. S. O. 1887, c. 104, s. 23 (1).

How petition served when parties are unknown, or reside abroad, etc.

24. The form of the notice shall be settled in each case by the Judge before publication thereof and shall be published in the *Ontario Gazette* for four weeks before the presentation of the petition, and in a paper published in the county within which the lands lie, and if there is no such paper, then in a newspaper published in the City of Toronto once in each week

Notice and publication of in *Gazette* and newspaper.

for four weeks before the time when the petition is to be presented. R. S. O. 1887, c. 104, s. 23 (2), s. 24.

Notice to be posted at court-house and school-house.

25. A copy of the notice shall be put up at or near the door of the court house of the county wherein the lands lie more than four weeks before such time, and shall at the same time be put up at the school-house of the section or school division within which the land is situate. R. S. O. 1887, c. 104, s. 25.

Publication of notice equivalent to personal service.

26. Such publication, upon proof thereof by affidavit, shall to all intents and purposes be equivalent to personal service upon all or any such unknown or absent parties. R. S. O. 1887, c. 104, s. 26.

Service may be made upon solicitor or agent in Ontario.

27. The petition and notice may be personally served, without such publication, on any known absent party or upon his solicitor or agent if he has any, residing in Ontario, thirty clear days previous to the presentation thereof, and the reasonable costs of serving any absent party shall be taxable as costs of the proceedings. R. S. O. 1887, c. 104, s. 27.

Allowance of petition.

28. Upon the presentation of a petition and upon such proof of service or publication thereof, with the notice as aforesaid, and of the facts justifying the mode of publication, as may be satisfactory, the Court or a Judge thereof presiding in Chambers shall and may by order allow the petition. R. S. O. 1887, c. 104, s. 28.

Registration certificate of allowance.

29. Immediately after the allowance of the petition upon the application of the party prosecuting the same, the officer with whom the petition has been filed, shall sign a certificate which shall set forth that the petition was allowed for partition of the lands and tenements, describing them, which certificate may be registered in the registry office of the registry division in which the lands lie. R. S. O. 1887, c. 104, s. 29.

How notice allowance, etc., served.

30. Upon the petition being allowed, notice of the order of allowance, copies thereof, and all other orders, copies, notices or other paper writings in any proceeding, subsequent to the service of the petition, unless otherwise in this Act specially directed, may be served on the solicitor of any party defending, and in case he has no solicitor, by posting up the same in the office in the county wherein the estate or any part thereof is situate of the officer with whom pleadings in an action are filed when the proceedings are in the High Court, and in the office of the Clerk of the County Court when the proceedings are in a County Court, which posting shall be equivalent to and as effectual as personal service on the party or parties to be affected thereby. R. S. O. 1887, c. 104, s. 30.

31. Upon the allowance of the petition the parties interested in the estate shall and may appear in person or by solicitor, and by a concise statement of facts under oath, by way of defence, and further, according to the practice of the Court in which the petition has been filed, shew title as to the proportions which they or any of them claim of the premises set forth in the petition, within fifteen days next after being served with a copy of the order, with a notice annexed thereto or endorsed thereon, requiring them to answer within the time above specified. R. S. O. 1887, c. 104, s. 31.

Parties interested may appear and shew title.

32. A party appearing may answer under oath, either separately or jointly with one or more of his co-defendants, that the petitioners, or any of them, at the time of prosecuting the petition, were not entitled to or in possession of the premises or any part thereof; or that the defendants, or any of them, had no interest in the premises, or did not hold the same, together with the petitioners, at the time of the commencement of the proceedings as alleged in the petition; or such other matter as such person shall desire to set up in answer according to the facts; and, at the expiration of the fifteen days allowed for answering, the petitioner or petitioners may, upon a verified copy of the petition and of all pleadings that may have been filed as aforesaid, and upon exhibiting *prima facie* proof of his, or their title, and upon such statement or affidavit as may be necessary, apply to the Court or a Judge in Chambers to finally determine any issues or questions raised by any party or parties interested, or for an order directing the trial of any issues of fact that may have been raised by the pleadings, or that a special case may be stated for the opinion of the Court in which the petition has been filed, or both for the trial of an issue of fact or law, or for any other order that the Court or a Judge may think proper under the circumstances. R. S. O. 1887, c. 104, s. 32.

Parties may answer etc.

33. All issues joined and ordered to be tried by the Court or a jury, shall be tried by the Court or jury, in the same manner as other issues are determined, on a record made up of the petition and of the defence pleaded thereto; and the like proceedings shall be had thereupon in every respect as to new trials or amendments, and any other particulars as in ordinary actions; and any special case so ordered as aforesaid, may be made up and proceeded upon, inclusive of signing judgment thereon, in like manner as the law directs for the practice as to special cases. R. S. O. 1887, c. 104, s. 33.

Trial of issues.

34. If none of the parties answer within fifteen days next after the service as aforesaid of the order of allowance of the petition, the petitioner shall be at liberty to sign judgment of partition: and thereupon and upon giving and serving fifteen days' written notice thereof, in manner

Proceedings in default of answer, etc.

hereinbefore provided, and upon exhibiting the evidence and proof in the next section of this Act mentioned, may apply to the Court or a Judge for the order mentioned in the next and following sections and proceed in the manner in the said sections provided. R. S. O. 1887, c. 104, s. 34.

Petitioners to prove title, etc.

35.—(1) The petitioners shall, whether or not the other parties who have been called upon to appear and answer have appeared and answered, exhibit *prima facie* proof of their title at the time of the application for the order for partition; or if an issue in fact has been ordered or a special case stated as aforesaid, then upon the final determination of the questions of law or fact, (if any,) so ordered to be tried as aforesaid, or in any or either of the cases aforesaid, the Court or a Judge shall, by order, determine and declare the rights, title and interests of all the parties concerned, and thereby order the real representative to proceed as hereinafter directed according to such rights, but not so as to affect any parties whose rights have not been ascertained.

Judge may order a sale without a reference.

(2) The Court or Judge, may, if it seems expedient to the said Court or Judge, in the first instance order a sale of the said lands without a reference to the real representative. R. S. O. 1887, c. 104, s. 35.

Order on real representative to make partition.

36. The Court or Judge shall, by the order of partition in the next preceding section mentioned, direct the real representative to make the partition so adjudged according to the respective rights and interests of the parties, as the same may have been ascertained and determined as aforesaid; and in the order the Court or the Judge shall designate the parts or shares which remain undivided for the owners whose interests are unknown and not ascertained; and the real representative shall forthwith proceed to make such partition, according to the judgment of the Court or Judge, unless it appears to him that the partition cannot be made without prejudice to the owners of the estate, in which case he shall make a return in writing of such fact to the Court under his hand. R. S. O. 1887, c. 104, s. 36.

How partition shall be made.

37. In making the partition the real representative shall divide the real estate and allot the several portions and shares thereof to the respective parties so adjudged as aforesaid, designating the several shares by posts, stones or other permanent monuments; and he may employ an Ontario Land Surveyor to assist him therein; and he shall make or cause to be made a true and accurate plan or map and field book of the land, and shall describe particularly the metes and bounds of the same; and he shall return to the Court or Judge having cognizance of the proceedings, the plan or map, field book and description, and shall report to the Court or Judge in writing the manner in which he has divided the estate, and the share allotted to each

Report and return thereon.

party, with the quantity, courses and distances of the boundaries of each share, and a description of the posts, stones or other monuments, together with an account of his fees, which fees, together with any charges for surveys, shall be ascertained and allowed by the Court or Judge; and the amount shall be paid by the petitioners, and shall be allowed to them as part of the costs to be taxed against the estate. R. S. O. 1887, c. 104 s. 37; 55 V. c. 34, ss. 10, 11.

38. The report shall be proved by affidavit before a notary public or a commissioner for taking affidavits, and shall be filed in the Court; and a copy thereof, after the report is confirmed by the Court, and certified under the hand of the registrar or clerk of the Court, and under the seal of the Court, shall be registered in the registry office of the registry division in which the estate is situate, on the production of the copy to the registrar. R. S. O. 1887, c. 104, s. 38.

Report to be proved, etc.

How registered.

39. Upon the return of the report, the Court or a Judge in Chambers may confirm the same, or remit the same back to the real representative for amendment in any particular or particulars in which there is manifest error; and upon a final confirmation a Judge's order may be granted and obtained, confirming in due form the said report; and the order shall be binding and conclusive on all known parties named in the petition, and where publication has been made as aforesaid, then also upon all unknown and absent parties, and all persons claiming from or through them; but the judgment shall not affect any person or persons having claims as tenants, tenants in dower, or by the curtesy, or for life, to the premises which form the subject of the partition, nor any person not named in the petition, either originally or by amendment, nor any unknown person, where there has not been publication as aforesaid. R. S. O. 1887, c. 104, c. 39.

Report to be confirmed or remitted for amendment.

Effect of confirmation.

40. Upon the report of the real representative that it appears to him that partition cannot be made without prejudice to the owners of, or parties interested in the estate, the Court or a Judge in Chambers may order a sale of the estate, if deemed prudent so to do; and, by an order to be made on filing the report, may direct and order the real representative to cause the estate, or any part thereof, to be sold by a fit and proper duly licensed auctioneer (to be approved of by the real representative), at public auction to the highest bidder, reserving to the real representative power, from time to time, to adjourn the sale, if in his judgment an adequate price is not bid for the estate, or any part thereof; and in the order, the Court or Judge shall direct the terms of payment of the purchase money, and the credit which may be allowed for any portions thereof, of which the Court or Judge may think proper to direct the investment, and which are required, by the provisions hereinafter contained, to be invested for the benefit

Sale if partition prejudicial.

of any unknown owners, infants, parties out of the Province, or any tenants for life, in dower, or by curtesy or otherwise; and the portions of the purchase money for which credit is allowed shall be secured at interest by a mortgage of the premises sold, by a covenant or bond of the purchaser, and by such other security as the Court or Judge aforesaid may prescribe in the order, or direct. R. S. O. 1887, c. 104, s. 40.

[See *Cap. 127, secs. 64-67, as to preference of purchase given to the person who would have been heir-at-law prior to 1st Jan., 1852.*]

Mortgages
taken on sale.

41—(1) The real representative may take separate mortgages or other securities for such convenient shares or portions of the purchase money as have been directed to be invested as aforesaid, in his name of office as Surrogate Judge and real representative for the county, and his successors in office, and for such shares as have been directed to be invested in the name of any known owner or party interested of full age, in the name of such person.

(2) Upon the sale being confirmed, the real representative shall deliver the mortgage to the registrar or clerk of the Court as the case may be, or deliver or assign the same to the known owner of the full age of twenty-one years, whose share has been ascertained and so invested. R. S. O. 1887, c. 104, s. 41.

Order for sale.

42. Where the notice of the petition has been published as required by this Act, the order for sale shall state that the notice has been so published, and that the sale will bind absent persons, whether known or unknown. R. S. O. 1887, c. 104, s. 42.

Orders binding
absent or un-
known
persons.

43. Before making an order for sale, where the plaintiff desires to bind absent or unknown persons, the Court or Judge shall be satisfied that all persons who are known have been served with notice of the proceedings, and that the proper publication has taken place as directed by this Act; and the party prosecuting the proceedings shall produce to the Court or Judge, in addition to all title deeds, an abstract of the title of the lot, certified by the registrar of the registry division in which the lands lie. R. S. O. 1887, c. 104, s. 43.

Reference as
to liens,
charges, etc.

44. Before making an order for sale, where any creditors have specific liens on the whole estate, or any undivided interest or estate therein of any of the parties, by means of a mortgage or other lien or security sufficient to bind lands according to the law of this Province, the Court or Judge in Chambers shall direct a reference to an officer of the Court, to be named in the order to ascertain and report whether the shares or interests in the premises of the parties in the proceeding, or any of them, are subject to any and what general lien or incumbrance as aforesaid. R. S. O. 1887, c. 104, s. 44.

45. The reference may be embodied in the order directing a sale, and the order may direct payment of such liens or charges out of the proceeds of the sale of the lands. Reference may be embodied in order for sale. R. S. O. 1887, c. 104, s. 45.

46. The officer to whom the reference is directed shall forthwith cause a notice to be published once in each week for three weeks, in some paper, if there is one, published in the county or counties where the lands are situate, or if there is none published in any such county, then in a paper published in the nearest county thereto, requiring all parties having any lien or incumbrance as aforesaid, on the whole or any part of the estate, to produce to the said officer on or before a certain day to be named in the notice, full particulars of all such liens and incumbrances, together with satisfactory evidence of the amount due thereon; and the said officer shall immediately thereafter report to the Court or Judge the names of the creditors, the nature and extent of the incumbrance, the date thereof, and the several amounts appearing to be due thereon; and thereupon the Court or Judge, in the order directing the real representative to partition or sell the lands, shall also make reference to such liens and incumbrances, and define the same; and the real representative shall, in making the partition, be governed accordingly; and in any order directing the sale of the lands, or any part thereof, the Court or Judge shall and may authorize and direct the real representative to pay, satisfy and discharge the amounts of the liens or incumbrances so ascertained, with any accrued interest thereon, up to the time of payment thereof, after deducting therefrom the portion of costs, charges and expenses to which the same may be liable. Proceedings on reference. R. S. O. 1887, c. 104, s. 46.

47. Any party entitled as creditor as aforesaid or otherwise to a share of the estate, may apply to the Court or a Judge to order the part of the purchase money which he claims to be paid to him, on affidavit shewing the amount truly due on each incumbrance (if any), the owner of the incumbrance and his residence, so far as known to such party, and also on proof of the due service of a notice on the petitioners and parties to the proceedings, and on every other incumbrancer, or on their solicitors or agents, of the intention to make the application at least fifteen days previous thereto, such service in any case where not made on the solicitor or agent, to be personal, or on a grown-up person at the usual or last known place of abode of the person to be served, if residing in this Province, and if residing out of this Province, sixty days previous thereto, or by previously publishing the notice once a week for two calendar months in a weekly newspaper published in the county or counties where the estate is situate. Creditors, etc., may apply for payment out of purchase money. R. S. O. 1887, c. 104, s. 47.

Real representative may pay creditors on order of Court.

48. The real representative shall and may, upon due proofs of identity, and upon the amounts thereof being ascertained and proved as aforesaid, upon the order of the Court or Judge in that behalf granted, pay each creditor as aforesaid from and out of the purchase money, the amount of his claim according to the priority thereof respectively, and shall cause the same to be duly discharged of record, first defraying and deducting the expenses and costs out of the moneys payable on the share or shares which were so incumbered; but the proceedings to ascertain the amount of the incumbrances shall not affect or delay the paying over or investing of money to or for any party upon whose estate in the premises there does not appear to be any existing incumbrance. R. S. O. 1887, c. 104, s. 48.

Sale may include estate of tenant in dower, by the curtesy or for life.

49.—(1) In any action or proceeding for partition or administration, or in any action or proceeding in which a partition or sale of land in lieu of partition is ordered, and in which the estate of any tenant in dower or tenant by the curtesy or for life is established, if the person entitled to the estate is a party, the Court or Judge shall determine whether the estate ought to be exempted from the sale, or whether the same should be sold; and in making such determination regard shall be had to the interests of all the parties.

(2) If a sale is ordered including such estate, all the estate and interest of every such tenant shall pass thereby; and no conveyance or release to the purchaser shall be required from such tenant; and the purchaser, his heirs and assigns, shall hold the premises freed and discharged from all claims by virtue of the estate or interest of any such tenant, whether the same be to any undivided share, or to the whole or any part of the premises sold.

(3) In such case the Court or Judge may direct the payment of such sum in gross out of the purchase money to the person entitled to dower or estate by the curtesy or for life, as may be deemed, upon the principles applicable to life annuities, a reasonable satisfaction for such estate; or may direct the payment, to the person entitled to dower or estate by the curtesy or for life, of an annual sum, or of the income or interest to be derived from the purchase money or any part thereof, as may seem just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as may be necessary. R. S. O. 1887, c. 104, s. 49.

Determining value of claim to inchoate right of dower.

50. Where a married woman is a party to such action or proceedings in respect to an inchoate right of dower, then in case of sale, the Court shall determine the value of such right according to the principles applicable to deferred annuities and survivorships, and shall order the amount of such value to be paid; or shall order the payment to such married woman, of an annual sum, or of such income or interest as is provided in the preceding section, and such payment shall be a bar to any right or claim of dower. R. S. O. 1887, c. 104, s. 50.

51. The real representative shall give notice of any sale to be made by him for such time and in such manner as he may see fit; and the terms of such sale shall be set out in the notice and made known at the time of the sale; and after the completion thereof, he shall report the same in writing to the Court, with a description of the different parcels of land sold to each purchaser, and the prices at which the same have been sold; and, at the expiration of fifteen days next after the said sale and the due filing of the report, the sales may be approved and confirmed by the Court or a Judge thereof; and an order shall be made directing the real representative to execute deeds pursuant to such sales; and the deeds so executed shall be recorded in the registry office of the registry division in which the lands lie in the same manner as other deeds, and shall be a bar against all known parties interested in the premises, and against all unknown parties where notice was published as aforesaid, and against all persons claiming under or through them, and also against all incumbrancers where the notice herebefore mentioned has been given to them, in manner and form aforesaid. R. S. O. 1887, c. 104, s. 51.

Notices of
sale.

Confirmation
of sale.

Conveyances.

52. Any partition or sale made by the High Court shall be as effectual for the apportioning or conveying away of the estate or interest of any married woman, infant or lunatic, party to the proceedings by which the sale or partition is made or declared, as of any person competent to act for himself. R. S. O. 1887, c. 104, s. 52.

Estates of
married wo-
men, etc., to
be bound.

53. An office copy of the judgment, order or report declaring or effecting a partition or sale by the High Court shall be sufficient evidence in all Courts of the partition declared thereby, and of the several holdings by the parties of the shares thereby allotted to them. R. S. O. 1887, c. 104, s. 53.

Office copy of
judgment, etc.,
to be evidence.

54. Where the notice of the petition has been published as required by this Act, the deed to be executed by the real representative shall set forth the order for sale; and the said deed shall vest in the purchaser an absolute and indefeasible title to the estates and interests, in the lands partitioned, to which all or any of the parties interested therein as co-tenants with the petitioner, or any one claiming under them or any or either of them, or under the petitioner are entitled, and shall be conclusive evidence that every application, notice, publication, proceeding and act whatsoever which ought to have been given and done previously to the execution of the same, has been given and done by the proper parties. R. S. O. 1887, c. 104, s. 54.

Deed.

Effect of Deed

55. The Court or a Judge in Chambers shall apportion the costs of the proceedings on the petition, according to the respective shares and interests of the parties, known or unknown, and shall direct the same to be paid to the petitioners, and such order shall operate as a judgment for such costs, and,

Apportion-
ment of the
costs.

on a copy thereof being filed in the registry office of the registry division in which the lands lie, shall be a charge for such proportion against the shares representing such proportion; and execution may issue therefor; and such share or interest may be sold thereon, and a valid title on the sale be given to the purchaser thereof, as in the case of sales by sheriffs on execution; and, if judgment is rendered against the petitioners for any cause, the Court or Judge aforesaid shall adjudge costs against them, to be recovered as in ordinary actions. R. S. O. 1887, c. 104, s. 55.

Application of proceeds.

56. The proceeds of the sale, after deducting all costs, shall be divided among the parties whose rights and interests have been sold, in proportion to their respective rights in the premises; and the shares of such as are of full age shall be paid to them by the real representative, and, in the case of infants, unknown or absent parties, shall be invested for them in the name of the real representative and his successors in office, until lawfully claimed by them or their legal representatives; and the real representative may, in his discretion, require all or any of the parties, before they receive any share of the moneys arising from the sale, to give security to his satisfaction that they will refund the said shares with interest thereon in case it should thereafter appear that such parties were not entitled thereto. R. S. O. 1887, c. 104, s. 56.

How securities taken.

57. All securities shall be taken in the name of the real representative and his successors in office, and the real representative shall keep, and see to the due collection of such securities. R. S. O. 1887, c. 104, s. 57.

Allowance for maintenance of infants.

58. The Court or Judge may, if it or he thinks fit, direct the interest, or an adequate portion thereof, accruing from time to time on any minor's share, to be applied towards his maintenance. R. S. O. 1887, c. 104, s. 58.

How moneys invested.

59. All investments of moneys received from sales under this Act shall be made in Dominion stock, or other public security of the Dominion of Canada, or of this Province. R. S. O. 1887, c. 104, s. 59.

Payment into Court.

60.—(1) All moneys which may be from time to time payable in respect of sales under this Act, or of securities taken in the name of the Surrogate Judge, shall be paid into some incorporated bank designated for this purpose, from time to time, by order of the Lieutenant-Governor in Council; or where there is no such bank, then into some incorporated bank in which public money of the Province is then being deposited.

Procedure.

(2) The money shall be so paid in to the credit of the matter in which the payment is made, with the privity of the clerk of the County Court, and in no other manner; and such money

Withdrawal.

shall only be withdrawn or reinvested on the order of the Court or a Judge thereof, with the privity of the clerk of the Court.

(5) The clerk shall keep a book or books containing an account of all moneys so paid in, and of the withdrawal thereof; and shall prepare in the month of January in every year a statement of all moneys so paid in and withdrawn, or reinvested respectively, and a statement of the condition of the various accounts upon the 31st day of the preceding December, and shall transmit to the Provincial Secretary and to the real representative, a copy of the statement, with a declaration thereto annexed made before a justice of the peace, notary public or commissioner for taking affidavits in the form following:

Clerk to keep
books and
render state-
ments.

I hereby solemnly declare that the annexed statement is a full and true statement of the moneys paid into the Court, to the credit of the real representative of the County of _____, under *The Partition Act*, during the year 18____, and that it correctly shews the state of the various accounts therein mentioned upon the thirty-first day of December last.

Verification of
statement by
Clerk.

(Signature) A. B.,
Clerk.

Subscribed and declared before me, at _____, this _____ day
of January, 18____.

C. D.,
Commissioner for taking affidavits, or
as the case may be.

(4) The book or books so to be kept shall be open for inspection within office hours; and the clerk shall give a certificate of the state of any account or an extract therefrom at the desire of any party interested, or his solicitor, on payment to the clerk of the sum of twenty cents for such inspection or certificate and the sum of ten cents per folio for such extract. R. S. O. 1887, c. 104, s. 60.

Books to be
open for in-
spection.

Fees for ex-
tracts, etc.,

61.—(1) All investments made prior to the 23rd day of January, 1869, on mortgage of real estate, and all acts and proceedings before said day done and performed, by virtue of the Partition Acts then in force, by any real representative shall be and the same are hereby declared valid and effectual.

Investments
before 23 Jan.,
1869, declared
valid.

(2) The successors in office, or any of them, of any deceased or other real representative, or any real representative for the time being, shall be and each of them is hereby duly empowered, upon payment having been made to any predecessor or himself in full of any sum or sums of money secured by mortgage, by virtue of this or any former Partition Act, to any predecessor or deceased predecessor in his lifetime, or to any successor or successors in office as such Surrogate Judge and real representative, or to himself, to execute and grant all necessary releases and discharges of the same in manner and form provided by *The Registry Act*. R. S. O. 1887, c. 104, s. 61.

Releases and
discharges.

Rev. Stat.
c. 136.

62. The Judge or Junior or acting Judge of the County Court for the time being shall, in case of the decease or absence When Judge,
Junior,
or acting

Judge may
act as real
representa-
tive

of the proper Surrogate Judge, be and he is hereby vested, for the time being, with all the functions, powers and authorities for the county, of the person hereby appointed the real representative, and shall perform the duties thereof till the appointment of or return of the Surrogate Judge. R. S. O. 1887, c. 104, s. 62.

Death, trans-
mission, or
change of
interest.

63. Proceedings under this Act shall not abate or be suspended by any death, or transmission or change of interest, but in any such event, if known, the Court or Judge may require notices to be given to persons becoming interested, or may make such order for carrying on the proceedings, or otherwise, in relation thereto, as may be just. R. S. O. 1887, c. 104, s. 63.

Amendment
of proceed-
ings.

64. The Court or a Judge shall have the same powers of amendment of all or any of the proceedings under this Act, as are possessed by the Court or a Judge in ordinary actions and proceedings pending in the Court. R. S. O. 1887, c. 104, s. 64.

Adding
parties.

65. In case at any time during the course of the proceedings it appears that any person not already a party thereto has any interest in the land, the Judge may, upon such terms as to him seem just, order such person to be named as a party and served with notice of the proceedings, and from the time of the service of the order, the said party shall be bound by the proceedings in the same manner as if he had actually been made a party to the same. R. S. O. 1887, c. 104, s. 65.

Powers of
Judge in
chambers.

66. A Judge in Chambers shall have equal power and jurisdiction with the full Court, in all proceedings under this Act, as fully as if specially named therein, except where the word "Court" is in this Act used alone. R. S. O. 1887, c. 104, s. 66.

Where affida-
vits, etc., to
be deposited,
etc.

67. All affidavits, orders, reports and other papers and documents filed with any local registrar, deputy clerk of the crown or deputy registrar, during the progress of any proceeding under this Act, shall be by him immediately thereafter transmitted to the Central Office at Toronto, to be preserved and safely kept as muniments of title. R. S. O. 1887, c. 104, s. 67.

An account of
unclaimed
moneys to be
published
yearly.

68.—(1) In the month of January in each year the real representative, or the officer of the Court having in any case the custody of any moneys, bonds, mortgages, securities or investments arising from the sales of such estates for the benefit of any unknown, absent, infant or lunatic parties, where no claim has been made on their behalf for any interest or principal of such investments during the preceding year, shall cause to be published in the *Ontario Gazette* and a weekly or daily paper published in the county in which the lands or any part thereof are situate, or if no such paper is published therein

then in a daily or weekly paper published in the next adjoining or nearest county where such paper is published, weekly for the period of four weeks, a statement of the securities or investments remaining unclaimed, shewing the name of the intestate party, the amount unclaimed, and the property from which the claim has arisen; and such statement shall be verified by the real representative, clerk, or other officer aforesaid under oath; and a copy thereof shall be filed among the records of the Court. R. S. O. 1887, c. 104, s. 68.

(2) In any case where, in the opinion of the Inspector of Legal Offices, such publication is an unnecessary expense, or the expense would not be justified by reason of the fund or estate being small, the real representative, or officer aforesaid, upon obtaining the direction of the Inspector, may dispense with the publication above provided for upon such terms as the said Inspector may direct. 53 V. c. 28, s. 1.

Dispensing with publication of account of unclaimed moneys.

69.—(1) In case no claim is made to such moneys, bonds, mortgages, securities or investments by the person entitled thereto within six months after the publication of such statement, the said moneys, and all sums as they become due and are paid under the said bonds, mortgages, securities or investments, shall be paid by the real representative upon the certificate of the Inspector of Legal Offices to the Accountant of the Supreme Court of Judicature for Ontario, to be placed by him to the credit of the matter in which the said moneys are held, such moneys to be received and paid out to the parties entitled pursuant to the order of partition and report of the real representative, as if the matter had been originally carried on in the High Court of Justice.

Disposition of unclaimed moneys.

(2) The real representative, in making such payments into Court as aforesaid, shall forward with the same an office copy of the order for partition and his report thereunder, together with the said certificate of the Inspector of Legal Offices, which shall set forth that he has inquired into the proceedings taken in the matter and that they have been duly taken according to the provisions of this Act, and that in his opinion it is a proper case in which the moneys should be paid into the accountant's office. 51 V. c. 16, s. 1.

70. The Judges of the Supreme Court, acting under sections 122 and 125 of *The Judicature Act*, shall make such tariff of fees, Rules and Orders for the proceedings on petitions under this Act as they may deem expedient and advisable. R. S. O. 1887, c. 104, s. 69.

Rules and orders.
Rev. Stat. c. 51.

CHAPTER 124.

An Act respecting Short Forms of Conveyances.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Interpreta-
tion.

1. Where the words following occur in this Act, or in the Schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :

“Lands.”

1. “Lands” shall extend to all freehold tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein, respectively.

“Party.”

2. “Party” shall mean and include any body politic, or corporate, as well as an individual. R. S. O. 1887, c. 105, s. 1.

Where words of Column 1 of Schedule B are employed the deed to have the same effect as if the words in Column 2 were inserted.

2. Where a deed expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B hereto annexed, and distinguished by any number therein, such deed shall be taken to have the same effect, and be construed as if it contained the form of words contained in Column Two of said Schedule B, and distinguished by the same number as is annexed to the form of words used in the deed ; but it shall not be necessary, in any such deed, to insert any such number. R. S. O. 1887, c. 105, s. 2.

Deeds failing to take effect under this Act to be as valid as if Act not passed.

3. Any deed or part of a deed which fails to take effect by virtue of this Act, shall, nevertheless, be as effectual to bind the parties thereto, as if this Act had not been passed. R. S. O. 1887, c. 105, s. 3.

Schedules, etc., to form part of Act.

4. The Schedules hereto, and the directions and forms therein contained, shall be deemed parts of this Act. R. S. O. 1887, c. 105, s. 5.

[See also *Cap. 119, sec. 12.*]

SCHEDULE A.

(Section 2.)

FORM OF CONVEYANCE.

This Indenture made the _____ day of _____, one thousand eight hundred and _____ in pursuance of *The Act respecting Short Forms of Conveyances*, Between (*here insert names of parties and recitals, if any,*) Witnesseth, that in consideration of _____ dollars, of lawful money of Canada, now paid by the said (grantee) to the said (grantor) the receipt whereof is hereby by him acknowledged, he the said (grantor) doth grant unto the said (grantee) in fee simple (*or otherwise as the case may be*) all, etc., (*parcels*)

(*Here insert covenants, or any other provisions.*)

In witness whereof the said parties hereto have hereunto set their hands and seals.

R. S. O. 1887, c. 105, Sched. A.

SCHEDULE B.

(Section 2.)

DIRECTIONS AS TO THE FORMS IN THIS SCHEDULE.

1. Parties who use any of the forms in the first column of this Schedule, may substitute for the words "Covenantor" or "Covenantee," or "Re-leasor" or "Releasee," "Grantor" or "Grantee," any name or other designation, and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column of this Schedule, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3. Such parties may introduce into, or annex to, any of the forms in the first column, any express exceptions from, or other express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

4. Such parties may add the name or other designation of any person or persons, or class or classes of persons, or any other words, at the end of form two, of the first column so as thereby to extend the words thereof to the acts of any additional person or persons, or class or classes of persons, or of all persons whomsoever; and in every such case the covenants two, three and four, or such of them as may be employed in such deed, shall be taken to extend to the acts of the person or persons, class or classes of persons, so named.

FORMS OF COVENANTS.

COLUMN ONE.

COLUMN TWO.

1. The said (*covenantor*) covenants with the said (*covenantee*).

2. That he has the right to convey the said lands to the said (*covenantee*) notwithstanding any act of the said (*covenantor*).

3. And that the said (*covenantee*) shall have quiet possession of the said lands.

4. Free from all incumbrances.

5. And the said (*covenantor*) covenants with the said (*covenantee*) that he will execute such further assurances of the said lands as may be requisite.

1. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree, with and to the said covenantee, his heirs, executors, administrators and assigns, in manner following, that is to say:

2. That for and notwithstanding any act, deed, matter or thing by the said covenantor done, executed, committed, or knowingly or wilfully permitted or suffered to the contrary, he, the said covenantor, now hath in himself good right, full power, and absolute authority to convey the said lands, and other the premises hereby conveyed, or intended so to be, with their and every of their appurtenances, unto the said covenantee, in manner aforesaid, and according to the true intent of these presents.

3. And that it shall be lawful for the said covenantee, his heirs, executors, administrators and assigns, from time to time and at all times hereafter, peaceably and quietly to enter upon, have, hold, occupy, possess and enjoy the said land and premises hereby conveyed, or intended so to be, with their and every of their appurtenances; and to have, receive and take the rents, issues and profits thereof, and of every part thereof, to and for his and their use and benefit, without any let, suit, trouble, denial, eviction, interruption, claim or demand whatsoever of, from or by him the said covenantor, or his heirs, or any person claiming, or to claim, by, from, under or in trust for him, them or any of them.

4. And that free and clear, and freely and absolutely acquitted, exonerated and for ever discharged, or otherwise by the said covenantor or his heirs well and sufficiently saved, kept harmless and indemnified of, from and against any and every former and other gift, grant, bargain, sale, jointure, dower, use, trust, entail, will, statute, recognizance, judgment, execution, extent, rent, annuity, forfeiture, re-entry, and any and every other estate, title, charge, trouble and incumbrance whatsoever, made, executed, occasioned or suffered by the said covenantor or his heirs, or by any person claiming, or to claim, by, from, under or in trust for him, them or any of them.

5. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise, and agree with and to the said covenantee, his heirs, executors, administrators and assigns, that he the said covenantor, his heirs, executors and administrators, and all and every other person whosoever having or claiming, or who shall or may hereafter have or claim, any estate, right, title or interest whatsoever in, to, or out of the said lands and

COLUMN ONE.

COLUMN TWO.

premises hereby conveyed, or intended so to be, or any of them, or any part thereof, by, from, under or in trust for him, them, or any of them, shall and will, from time to time, and at all times hereafter, upon every reasonable request, and at the costs and charges of the said covenantee, his heirs, executors, administrators or assigns, make, do, execute, or cause to be made, done or executed, all such further and other lawful acts, deeds, things, devices, conveyances and assurances in the law whatsoever, for the better, more perfectly, and absolutely conveying and assuring the said lands and premises hereby conveyed, or intended so to be, and every part thereof, with their appurtenances, unto the said covenantee, his heirs, executors, administrators and assigns, in manner aforesaid as by the said covenantee, his heirs, executors, administrators and assigns, his or their counsel in the law, shall be reasonably devised, advised or required, so as no such further assurances contain or imply any further or other covenant or warranty than against the acts and deeds of the person who shall be required to make or execute the same, and his heirs, executors or administrators only, and so as no person who shall be required to make or execute such assurances shall be compellable for the making or executing thereof, to go or travel from his usual place of abode.

6. And the said (covenantor) covenants with the said (covenantee) that he will produce the title deeds enumerated hereunder, and allow copies to be made of them, at the expense of the said (covenantee).

6. And the said covenantor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree with and to the said covenantee, his heirs, executors, administrators and assigns, that the said covenantor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request, costs and charges of the said covenantee, his heirs, executors, administrators or assigns, or his or their solicitor, agent or counsel, at any trial or hearing in any action or otherwise, as occasion shall require, produce all and every or any deed, instrument or writing hereunder written, for the manifestation, defence and support of the estate, title and possession of the said covenantee, his heirs, executors, administrators and assigns, in or to the said lands and premises hereby conveyed, or intended so to be, and at the like request, costs and charges, shall and will make and deliver, or cause to be made and delivered, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds, by the said covenantee, his heirs, executors, administrators and assigns, or such person as he or they shall for that purpose direct and appoint.

7. And the said (covenantor) cove-

7. And the said covenantor, for himself, his heirs, executors and administrators, doth hereby covenant, promise and agree, with and to the said

COLUMN ONE.

COLUMN TWO.

nants with the said
(*covenantee*) that he
has done no act to
incumber the said
lands.

8. And the said
(*releasor*) releases to
the said (*releasee*)
all his claims upon
the said lands.

9. And the said
(A.B.) wife of the
said (*grantor*) here-
by bars her dower
in the said lands.

covenantee, his heirs, executors, administrators and assigns, that he hath not at any time heretofore made, done, committed, executed, or wilfully or knowingly suffered any act, deed, matter or thing whatsoever, whereby or by means whereof the said lands and premises hereby conveyed, or intended so to be, or any part or parcel thereof are, is, or shall or may be in anywise impeached, charged, affected or incumbered in title, estate or otherwise howsoever.

8. And the said releasor hath released, remised and for ever quitted claim, and by these presents doth release, remise and for ever quit claim, unto the said releasee, his heirs, executors, administrators and assigns, all, and all manner of right, title, interest, claim and demand whatsoever, in, to and out of the said lands and premises hereby granted, or intended so to be, and every part and parcel thereof, so as that neither he nor his heirs, executors, administrators or assigns shall nor may, at any time hereafter, have claim, pretend to, challenge or demand the said lands and premises or any part thereof, in any manner howsoever, but the said releasee, his heirs, executors, administrators and assigns, and the same lands and premises shall from henceforth forever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said releasor might or could have upon him in respect of the said lands, or upon the said lands.

9. And the said (A.B.) wife of the said grantor, for and in consideration of the sum of dollars of lawful money of Canada, to her in hand paid by the said grantee at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said grantee, his heirs, executors, administrators and assigns, all her dower and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to or out of the lands and premises hereby conveyed or intended so to be.

R. S. O. 1887, c. 105, Sched. B.

CHAPTER 125.

An Act respecting Short Forms of Leases.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Where a lease under seal executed on or after the 31st day of December, 1897, made according to the form set forth in Schedule A, annexed to this Act, or any other such lease expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, hereto annexed, and distinguished by any number therein, such lease shall be taken to have the same effect, and be construed as if it contained the form of words contained in Column Two of said Schedule B, and distinguished by the same number as is annexed to the form of words used in the lease ; but it shall not be necessary, in any such lease, to insert any such number. R. S. O. 1887, c. 106, s. 1 ; 60 V. c. 15, s. 11, Sched. A (24, 25).

Where words of column 1 of Schedule B are employed, the deed to have the same effect as if the words in column 2 were inserted.

2. Any lease or part of a lease which fails to take effect by virtue of this Act, shall nevertheless be as effectual to bind the parties thereto, as if this Act had not been passed. R. S. O. 1887, c. 106, s. 2.

Deeds failing to take effect under this Act to be as valid as if Act not passed.

3. Unless the contrary is expressly stated in the lease, all covenants not to assign or sub-let without leave entered into by a lessee in any lease under this Act shall run with the land demised, and shall bind the heirs, executors, administrators, and assigns of the lessee whether mentioned in the lease or not, unless it is by the terms of the lease otherwise expressly provided, and the proviso for re-entry contained in Schedule B to this Act shall, when inserted in a lease, apply to a breach of either an affirmative or negative covenant. R. S. O. 1887, c. 106, s. 4.

Covenants to run with land.

[See also Cap. 119, sec. 12.]

SCHEDULE A.

(Section 1.)

FORM OF LEASE.

This indenture, made the _____ day of _____, in the year of our Lord one thousand eight hundred and _____, in pursuance of *The Act respecting Short Forms of Leases*, between _____, of the first part, and _____, of the second part, Witnesseth, that

in consideration of the rents, covenants and agreements, hereinafter reserved and contained on the part of the said party (or parties) of the second part, his (or their) executors, administrators and assigns, to be paid, observed and performed, he (or they) the said party (or parties) of the first part hath (or have) demised and leased, and by these presents do (or doth) demise and lease unto the said party (or parties) of the second part, his (or their) executors, administrators and assigns, all that messuage or tenement situate (or all that parcel or tract of land situate), lying and being (*here insert a description of the premises with sufficient certainty.*)

To have and to hold the said demised premises for and during the term of _____, to be computed from the _____ day of _____ one thousand eight hundred and _____, and from thenceforth next ensuing and fully to be complete and ended.

Yielding and paying therefor yearly and every year during the said term hereby granted unto the said party (or parties) of the first part, his (or their) heirs, executors, administrators or assigns, the sum of _____ to be payable on the following days and times, that is to say (on, etc.), the first of such payments to become due and be made on the _____ day of _____ next.

R. S. O. 1887, c. 106, Sched. A.

SCHEDULE B.

(Section 1.)

DIRECTIONS AS TO THE FORMS IN THIS SCHEDULE.

1. Parties who use any of the forms in the first column of this Schedule, may substitute for the words "Lessee" or "Lessor" any name or names (or other designation) and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.

2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular in the forms in the first column of this Schedule, and corresponding changes shall be taken to be made in the corresponding forms in the second column.

3. Such parties may introduce into or annex to any of the forms in the first column any express exceptions from or express qualifications thereof respectively, and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

4. Where the premises demised are of freehold tenure, the covenants 1 to 8 shall be taken to be made with, and the proviso 11 to apply to the heirs and assigns of the lessor; and where the premises demised are of leasehold tenure, the said covenants and proviso shall be taken to be made with, and apply to the lessor, his executors, administrators and assigns.

5. Where the word "lessor" occurs in the second column of this schedule, it shall be held to include the heirs and assigns of the lessor, if the premises demised are of freehold tenure and to include the heirs, executors, administrators and assigns of the lessor, if such premises are of leasehold tenure; and where the word "lessee" occurs in the said second column it shall be held to include the executors, administrators and assigns of the lessee.

FORMS OF COVENANTS.

COLUMN ONE.

COLUMN TWO.

- | | |
|--|--|
| <p>1. The said (<i>lessee</i>) covenants with the said (<i>lessor</i>) to pay rent.</p> | <p>1. And the said lessee doth hereby for himself, his heirs, executors, administrators and assigns, covenant with the said lessor that he, the said lessee, his executors, administrators and assigns, will, during the said term, pay unto the said lessor the rent hereby reserved, in manner hereinbefore mentioned, without any deduction whatsoever.</p> |
| <p>2. And to pay taxes, except for local improvements.</p> | <p>2. And also will pay all taxes, rates, duties, and assessments whatsoever, whether municipal, parliamentary or otherwise, now charged or hereafter to be charged upon the said demised premises, or upon the said lessor on account thereof, except municipal taxes for local improvements or works assessed upon the property benefited thereby.</p> |
| <p>3. And to repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.</p> | <p>3. And also will, during the said term, well and sufficiently repair, maintain, amend and keep the said demised premises with the appurtenances in good and substantial repair, and all fixtures and things thereto belonging, or which at any time during the said term shall be erected and made by the lessor, when, where, and so often as need shall be, reasonable wear and tear and damage by fire, lightning and tempest only excepted.</p> |
| <p>4. And to keep up fences.</p> | <p>4. And also will, from time to time, during the said term, keep up the fences and walls of or belonging to the said premises, and make anew any parts thereof that may require to be new-made in a good and husband-like manner and at proper seasons of the year.</p> |
| <p>5. And not to cut down timber.</p> | <p>5. And also will not at any time during the said term hew, fell, cut down or destroy, or cause or knowingly permit or suffer to be hewed, felled, cut down or destroyed, without the consent in writing of the lessor, any timber or timber trees, except for necessary repairs, or firewood, or for the purpose of clearance as herein set forth.</p> |
| <p>6. And that the said (<i>lessor</i>) may enter and view state of repair, and that the said (<i>lessee</i>) will repair according to notice in writing, reasonable wear and tear, and damage by fire, lightning and tempest only excepted.</p> | <p>6. And it is hereby agreed that it shall be lawful for the lessor and his agents, at all reasonable times during the said term, to enter the said demised premises to examine the condition thereof: and further, that all want of reparation that upon such view shall be found, and for the amendment of which notice in writing shall be left at the premises, the said lessee, his executors, administrators and assigns will, within three calendar months next after such notice, well and sufficiently repair and make good accordingly, reasonable wear and tear and damage by fire, lightning and tempest only excepted.</p> |

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7. And will not assign or sub-let without leave.

7. And also that the lessee, his executors, administrators and assigns shall not, nor will during the said term, assign, transfer or set over, or otherwise by any act or deed procure the said premises or any of them to be assigned, transferred set over or sub-let unto any person or persons whomsoever without the consent in writing of the lessor, his heirs or assigns, first had and obtained.

8. And that he will leave the premises in good repair, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

8. And further, the lessee will, at the expiration, or other sooner determination of the said term, peaceably surrender and yield up unto the said lessor the said premises hereby demised, with the appurtenances, together with all buildings, erections and fixtures erected or made by the lessor thereon, in good and substantial repair and condition, reasonable wear and tear and damage by fire, lightning and tempest only excepted.

9. Provided, that the lessee may remove his fixtures.

9. Provided always, and it is hereby expressly agreed that the lessee may at or prior to the expiration of the term hereby granted, take, remove and carry away from the premises hereby demised all fixtures, fittings, plant, machinery, utensils, shelving, counters, safes or other articles upon the said premises in the nature of trade or tenants' fixtures or other articles belonging to or brought upon the said premises by the said lessee, but the lessee shall in such removal do no damage to the said premises, or shall make good any damage which he may occasion thereto.

10. Provided, that in the event of fire, lightning or tempest, rent shall cease until the premises are rebuilt.

10. Provided, and it is hereby declared and agreed, that in case the premises hereby demised or any part thereof shall at any time during the term hereby agreed upon be burned down or damaged by fire, lightning or tempest so as to render the same unfit for the purposes of the said lessee, then and so often as the same shall happen, the rent hereby reserved, or a proportionate part thereof, according to the nature and extent of the injuries sustained shall abate, and all or any remedies for recovery of said rent or such proportionate part thereof shall be suspended until the said premises shall have been rebuilt or made fit for the purposes of the said lessee.

11. Proviso for re-entry by the said (lessor) on non-payment of rent or non-performance of covenants.

11. Provided always, and it is hereby expressly agreed, that if and whenever the rent hereby reserved, or any part thereof, shall be unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand shall have been made thereof, or in case of the breach or non-performance of any of the covenants or agreements herein contained on the part of the lessee, his executors, administrators or assigns, then and in either of such cases it shall be lawful for the lessor at any time hereafter, into and upon the said demised premises or any part

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thereof, in the name of the whole to re-enter, and the same to have again, repossess and enjoy, as of his or their former estate ; anything hereinafter contained to the contrary notwithstanding.

12. The said
(*lessor*) covenants
with the said
(*lessee*) for quiet
enjoyment.

12. And the lessor doth hereby for himself, his heirs, executors, administrators and assigns, covenant with the lessee, his executors, administrators and assigns, that he and they paying the rent hereby reserved, and performing the covenants hereinbefore on his and their part contained, shall and may peaceably possess and enjoy the said demised premises for the term hereby granted, without any interruption or disturbance from the lessor, his heirs, executors, administrators and assigns, or any other person or persons lawfully claiming by, from or under him, them or any of them.

R. S. O. 1887, c. 106, Sched. B ; 58 V. c. 26, s. 2 ; 60 V. c. 14, s. 28 (1) part ; c. 15, Sched. A (24, 25).

CHAPTER 126.

An Act respecting Short Forms of Mortgages.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpreta-
tion.

1. Where the words following occur in this Act or in the Schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:

“Lands.”

1. “Lands” shall extend to all freehold tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein respectively;

“Party.”

2. “Party” shall mean and include any body politic or corporate as well as an individual. R. S. O. 1887, c. 107, s. 1.

Where words
of column one
of Schedule B
are employed,
the mortgage
to have the
same effect as
if the words in
column two
were inserted.

2. Where a mortgage of real property in Ontario, made according to the form set forth in Schedule A, annexed to this Act, or any other such mortgage expressed to be made in pursuance of this Act, or referring thereto, contains any of the forms of words contained in Column One of Schedule B, to this Act, and distinguished by any number therein, such mortgage shall be taken to have the same effect, and be construed as if it contained the form of words contained in Column Two of the said Schedule B, and distinguished by the same number as is annexed to the form of words used in such mortgage; but it shall not be necessary in any such mortgage to insert any such number. R. S. O. 1887, c. 107, s. 2.

Mortgages not
taking effect
under this Act
how far valid.

3. Any such mortgage or part of such mortgage which fails to take effect by virtue of this Act, shall nevertheless be as effectual to bind the parties thereto, as if this Act had not been passed. R. S. O. 1887, c. 107, s. 3.

Schedules,
etc., to form
part of Act.

4. The schedules hereto, and the directions and forms therein contained, shall be deemed parts of this Act. R. S. O. 1887, c. 107, s. 5.

[See also Cap. 119, sec. 12.]

SCHEDULE A.

(Section 2.)

FORM OF MORTGAGE.

This Indenture, made the _____ day of _____, one thousand eight hundred and _____, in pursuance of *The Act respecting Short Forms of Mortgages*, between *(here insert the names of parties and recitals, if any)*, Witnesseth, that in consideration of _____ of lawful money of Canada, now paid by the said mortgagee *(or mortgagees)* to the said mortgagor *(or mortgagors)*, the receipt whereof is hereby acknowledged, the said mortgagor *(or mortgagors)* doth *(or do)* grant and mortgage unto the said mortgagee *(or mortgagees)*, his *(her or their)* heirs, executors, administrators and assigns for ever, all *(parcels)*.

(Here insert provisoes, covenants or other provisions).

In witness whereof the said parties hereto have hereunto set their hands and seals.

R. S. O. 1887, c. 107, Schedule A.

SCHEDULE B.

(Section 2).

DIRECTIONS AS TO THE FORMS IN THIS SCHEDULE.

1. Parties who use any of the forms in the first column of this Schedule may substitute for the words "Mortgagor" or "Mortgagors," or "Mortgagee" or "Mortgagees," any name or other designation; and in every such case corresponding substitutions shall be taken to be made in the corresponding forms in the second column.
2. Such parties may substitute the feminine gender for the masculine, or the plural number for the singular, in any of the forms in the first column of this Schedule; and corresponding changes shall be taken to be made in the corresponding forms in the second column.
3. Such parties may introduce into, or annex to any of the forms in the first column, any express exceptions from or other express qualifications thereof respectively; and the like exceptions or qualifications shall be taken to be made from or in the corresponding forms in the second column.

FORMS OF COVENANTS, ETC.

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COLUMN TWO.

1. And the said (A.B.) wife of the said mortgagor hereby bars her dower in the said lands.

2. Provided: This mortgage to be void on payment of (*amount of principal money*) of lawful money of Canada, with interest at (*rate of interest*) per cent. as follows: (*terms of payment of principal and interest*) and taxes and performance of statute labour.

3. The said mortgagor covenants with the said mortgagee.

4. That the mortgagor will pay the mortgage money and interest, and

1. And the said (A.B.) wife of the said mortgagor for and in consideration of the sum of lawful money of Canada, to her in hand paid by, the said mortgagee, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted and released, and by these presents doth grant and release unto the said mortgagee, his heirs, executors, administrators and assigns, all her dower, and right and title which, in the event of her surviving her said husband, she might or would have to dower, in, to, or out of the lands and premises hereby conveyed or intended so to be.

2. Provided always, and these presents are upon this express condition, that if the said mortgagor, his heirs, executors, administrators or assigns, or any of them, do and shall well and truly pay or cause to be paid unto the said mortgagee, his executors, administrators or assigns, the just and full sum of (*amount of principal money*) of lawful money of Canada, with interest thereon, at the rate of (*rate of interest*) per cent. per annum, on the days and times, and in manner following—that is to say (*terms of payment of principal and interest*), without any deduction, defalcation or abatement out of the same for or in respect of any taxes, rates, levies, charges, rents, assessments, statute labour or other impositions whatsoever already rated, charged, assessed or imposed, or hereafter to be rated, charged, assessed or imposed by authority of Parliament or of the Legislature, or otherwise howsoever, on the said lands and tenements, hereditaments and premises, with the appurtenances, or on the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said premises, or of the said money or interest, or any other matter or thing relating to these presents, and until such default as aforesaid shall and will well and truly pay, do and perform or cause or procure to be paid, done and performed, all matters and things in this proviso hereinbefore set forth, then these presents and everything in the same contained shall be absolutely null and void.

3. And the said mortgagor doth hereby, for himself, his heirs, executors and administrators, covenant, promise and agree to and with the said mortgagee, his heirs, executors, administrators and assigns, in manner following, that is to say:

4. That the said mortgagor, his heirs, executors, administrators or some or one of them shall and will well and truly pay or cause to be paid unto the said mortgagee, his heirs, executors, administrators or assigns, the said sum of money in

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observe the above proviso.

5. That the mortgagor has a good title in fee simple to the said lands.

6. And that he has the right to convey the said lands to the said mortgagee.

7. And that on default the mortgagee shall have quiet possession of the said lands.

8. Free from all incumbrances.

the above proviso mentioned, with interest for the same as aforesaid, at the days and times and in the manner above limited for payment thereof, and shall and will in everything well, faithfully and truly do, observe, perform, fulfil and keep all and singular the provisions, agreements and stipulations in the said above proviso particularly set forth, according to the true intent and meaning of these presents, and of the said above proviso.

5. And also, that the said mortgagor, at the time of the sealing and delivery hereof, is, and stands solely, rightfully and lawfully seised of a good, sure, perfect, absolute and indefeasible estate of inheritance, in fee simple, of and in the lands, tenements, hereditaments and all and singular other the premises hereinbefore described, with their and every of their appurtenances, and of and in every part and parcel thereof, without any manner of trusts, reservations, limitations, provisos or conditions, except those contained in the original grant thereof from the Crown or any other matter or thing to alter, charge, change, incumber or defeat the same.

6. And also, that the said mortgagor now hath in himself good right, full power and lawful and absolute authority to convey the said lands, tenements, hereditaments, and all and singular other the premises hereby conveyed or hereinbefore mentioned or intended so to be, with their and every of their appurtenances unto the said mortgagee, his heirs, executors, administrators and assigns, in manner aforesaid, and according to the true intent and meaning of these presents.

7. And also, that from and after default shall happen to be made of or in the payment of the said sum of money, in the said above proviso mentioned, or the interest thereof, or any part thereof, or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents, and of the said proviso, then, and in every such case, it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators and assigns, peaceably and quietly to enter into, have, hold, use, occupy, possess and enjoy the aforesaid lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with their appurtenances, without the let, suit, hindrance, interruption or denial of him the said mortgagor, his heirs or assigns, or any other person or persons whomsoever.

8. And that free and clear and freely and clearly acquitted, exonerated and discharged of and from all arrears of taxes and assessments whatsoever due or payable upon or in respect of the said lands,

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tenements, hereditaments and premises or any part thereof, and of and from all former conveyances, mortgages, rights, annuities, debts, judgments, executions and recognizances, and of and from all manner of other charges or incumbrances whatsoever.

9. And that the said mortgagor will execute such further assurances of the said lands as may be requisite.

9. And also, that from and after default shall happen to be made of or in the payment of the said sum of money in the said proviso mentioned, or the interest thereof, or any part of such money or interest or of or in the doing, observing, performing, fulfilling or keeping of some one or more of the provisions, agreements or stipulations in the said above proviso particularly set forth, contrary to the true intent and meaning of these presents and of the said proviso, then and in every such case the said mortgagor, his heirs and assigns, and all and every other person or persons whosoever having, or lawfully claiming, or who shall or may have or lawfully claim any estate, right, title, interest or trust of, in, to or out of the lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, with the appurtenances or any part thereof, by, from, under or in trust for him the said mortgagor, shall and will, from time to time, and at all times thereafter, at the proper costs and charges of the said mortgagee, his heirs, executors, administrators and assigns, make, do, suffer and execute, or cause or procure to be made, done, suffered and executed, all and every such further and other reasonable act or acts, deed or deeds, devices, conveyances, and assurances in the law for the further, better and more perfectly and absolutely conveying and assuring the said lands, tenements, hereditaments and premises, with the appurtenances, unto the said mortgagee, his heirs, executors, administrators and assigns, as by the said mortgagee his heirs and assigns or his or their counsel learned in the law, shall or may be lawfully and reasonably devised, advised or required, so as no person who shall be required to make or execute such assurances shall be compelled, for the making or executing thereof, to go or travel from his usual place of abode.

10. And also that the said mortgagor will produce the title deeds enumerated hereunder, and allow copies to be made at the expense of the mortgagee.

10. And also, that the said mortgagor and his heirs shall and will, unless prevented by fire or other inevitable accident, from time to time, and at all times hereafter, at the request and proper costs and charges in the law of the said mortgagee his heirs, executors, administrators or assigns, at any trial or hearing in any action, or otherwise as occasion shall require, produce all, every or any deed, instrument or writing hereunder written for the manifestation, defence and support of the estate, title and possession of the said mortgagee, his heirs, executors, administrators and assigns, of, in, to or out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to

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be, and at the like request, costs and charges shall and will make and deliver, or cause or procure to be made and delivered, unto the said mortgagee, his heirs, executors, administrators and assigns, true and attested or other copies or abstracts of the same deeds, instruments and writings respectively, or any of them, and shall and will permit and suffer such copies and abstracts to be examined and compared with the said original deeds by the said mortgagee, his heirs and assigns.

11. And that the said mortgagor has done no act to incumber the said lands.

11. And also that the said mortgagor hath not at any time heretofore made, done, committed, executed or wilfully or knowingly suffered any act, deed, matter or thing whatsoever whereby or by means whereof the said lands, tenements, hereditaments and premises hereby conveyed or mentioned or intended so to be, or any part or parcel thereof, are, is or shall or may be in any wise impeached, charged, affected or incumbered in title, estate or otherwise howsoever.

12. And that the said mortgagor will insure the buildings on the said lands to the amount of not less than currency.

12. And also that the said mortgagor or his heirs shall and will forthwith insure, unless already insured, and during the continuance of this security keep insured against loss or damage by fire, in such proportions upon each building as may be required by the said mortgagee, his heirs, executors, administrators or assigns, the messuages and buildings erected on the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, in the sum of of lawful money of Canada, at the least, in some insurance office to be approved of by the said mortgagee, his heirs, executors, administrators or assigns, and pay all premiums and sums of money necessary for such purpose, as the same shall become due, and will on demand assign, transfer and deliver over unto the said mortgagee, his heirs, executors, administrators or assigns, the policy or policies of assurance, receipt or receipts thereto appertaining; and if the said mortgagee, his heirs, executors, administrators or assigns, shall pay any premiums or sums of money for insurance of the said premises or any part thereof, the amount of such payment shall be added to the debt hereby secured, and shall bear interest at the same rate from the time of such payments, and shall be payable at the time appointed for the then next ensuing payment of interest on the said debt.

13. And the said mortgagor doth release to the said mortgagee all his claims upon the said lands subject to the said proviso.

13. And the said mortgagor hath released, remised and for ever quitted claim, and by these presents doth release, remise, and for ever quit claim unto the said mortgagee, his heirs, executors, administrators and assigns, all and all manner of right, title, interest, claim and demand whatsoever, of, unto and out of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, and every part and parcel

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thereof, so as that neither the said mortgagor, his heirs, executors, administrators or assigns, shall or may at any time hereafter have, claim, pretend to, challenge or demand the said lands, tenements, hereditaments and premises, or any part thereof, in any manner howsoever, subject always to the said above proviso; but the said mortgagee, his heirs, executors, administrators or assigns, and the said lands, tenements, hereditaments and premises, subject as aforesaid, shall from henceforth for ever hereafter be exonerated and discharged of and from all claims and demands whatsoever which the said mortgagor, his heirs or assigns, might or could have upon the said mortgagee, his heirs, executors, administrators or assigns, in respect of the said lands, tenements, hereditaments and premises, or upon the said lands, tenements, hereditaments and premises.

14. Provided, that the said mortgagee on default of payment for months, may on notice enter on and lease or sell the said lands.

14. Provided always, and it is hereby declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors or administrators, shall make default in any payment of the said money or interest or any part of either of the same, according to the true intent and meaning of these presents, and of the proviso in that behalf hereinbefore contained, and calendar months shall have thereafter elapsed without such payment being made (of which default, as also of the continuance of the said principal money and interest, or some part thereof, on this security, the production of these presents shall be conclusive evidence), it shall and may be lawful to and for the said mortgagee, his heirs, executors, administrators or assigns, after giving written notice to the said mortgagor, his heirs or assigns, of his intention in that behalf, either personally or at his or their usual or last place of residence within this Province not less than previous, without any further consent or concurrence of the said mortgagor, his heirs or assigns, to enter into possession of the said lands, tenements, hereditaments and premises hereby conveyed, or mentioned or intended so to be, and to receive and take the rents, issues and profits thereof, and whether in or out of possession of the same, to make any lease or leases thereof, or of any part thereof as he shall think fit, and also to sell and absolutely dispose of the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, or any part or parts thereof, with the appurtenances, by public auction or private contract, or partly by public auction and partly by private contract, as to him shall seem meet, and to convey and assure the same when so sold unto the purchaser or purchasers thereof, his heirs and assigns, or as he, she or they shall direct and appoint, and to execute and do all such assurances, acts, matters and things as may be found necessary for the purposes aforesaid, and the said mortgagee shall not be responsible for any loss which may arise by reason of

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any such leasing or sale as aforesaid, unless the same shall happen by reason of his wilful neglect or default; and it is hereby further agreed between the parties to these presents, that, until such sale or sales shall be made as aforesaid, the said mortgagee, his heirs, executors, administrators, or assigns shall and will stand and be possessed of and interested in the rents and profits of the said lands, tenements, hereditaments and premises, in case he shall take possession of the same on any default as aforesaid, and after such sale or sales shall stand and be possessed of and interested in the moneys to arise and be produced by such sale or sales, or which shall be received by the mortgagee, his heirs, executors, administrators or assigns, by reason of any insurance upon the said premises or any part thereof, upon trust in the first place to pay and satisfy the costs and charges of preparing for and making sales, leases and conveyances as aforesaid, and all other costs and charges, damages and expenses which the said mortgagee, his heirs, executors, administrators or assigns, shall bear, sustain, or be put to for taxes, rent, insurances and repairs, and all other costs and charges which may be incurred in and about the execution of any of the trusts in him hereby reposed, and in the next place to pay and satisfy the principal sum of money and interest hereby secured or mentioned or intended so to be, or so much thereof as shall remain due and unsatisfied up to and inclusive of the day whereon the said principal sum shall be paid and satisfied; and after full payment and satisfaction of all such sums of money and interest as aforesaid, upon this further trust that the said mortgagee, his heirs, executors, administrators or assigns, do and shall pay the surplus, if any, to the said mortgagor, his executors, administrators or assigns, or as he shall direct and appoint, and shall also, in such event, at the request, costs and charges in the law of the said mortgagor, his heirs or assigns, convey and assure unto the said mortgagor, his heirs or assigns, or to such person or persons as he shall direct and appoint, all such parts of the said lands, tenements, hereditaments and premises as shall remain unsold for the purposes aforesaid, freed and absolutely discharged of and from all estate, lien, charge and incumbrance whatsoever by the said mortgagee, his heirs, executors, administrators or assigns, in the meantime, so as no person who shall be required to make or execute any such assurances, shall be compelled for the making thereof to go or travel from his usual place of abode; Provided always, and it is hereby further declared and agreed by and between the parties to these presents, that notwithstanding the power of sale and other the powers and provisions contained in these presents, the said mortgagee, his heirs, executors, administrators or assigns, shall have and be entitled to his right of foreclosure of the equity of redemption

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of the said mortgagor, his heirs and assigns in the said lands, tenements, hereditaments and premises as fully and effectually as he might have exercised and enjoyed the same in case the power of sale, and the other former provisoes and trusts incident thereto had not been herein contained.

15. Provided that the mortgagee may distrain for arrears of interest.

15. And it is further covenanted, declared and agreed by and between the parties to these presents, that if the said mortgagor, his heirs, executors or administrators, shall make default in payment of any part of the said interest at any of the days or times hereinbefore limited for the payment thereof, it shall and may be lawful for the said mortgagee, his heirs, executors, administrators or assigns, to distrain therefor upon the said lands, tenements, hereditaments and premises, or any part thereof, and, by distress warrant, to recover by way of rent reserved, as in the case of a demise, of the said lands, tenements, hereditaments and premises, so much of such interest as shall, from time to time, be, or remain in arrear and unpaid, together with all cost-, charges and expenses attending such levy or distress, as in like cases of distress for rent.

16. Provided that in default of the payment of the interest hereby secured, the principal hereby secured shall become payable.

16. Provided always, and it is hereby further expressly declared and agreed by and between the parties to these presents, that if any default shall at any time happen to be made of or in the payment of the interest money hereby secured or mentioned, or intended so to be, or any part thereof, then and in such case the principal money hereby secured or mentioned, or intended so to be, and every part thereof, shall forthwith become due and payable in like manner and with the like consequences and effects, to all intents and purposes whatsoever, as if the time herein mentioned for payment of such principal money had fully come and expired, but that in such case the said mortgagor, his heirs or assigns, shall on payment of all arrears under these presents, with lawful costs and charges in that behalf, at any time before any judgment in the premises recovered, or within such time as, by the practice of the High Court, relief therein could be obtained, be relieved from the consequences of non-payment of so much of the money secured by these presents, or mentioned, or intended so to be, as may not then have become payable by reason of lapse of time.

17. Provided that until default of payment the mortgagor shall have quiet possession of the said lands

17. And provided also, and it is hereby further expressly declared and agreed by and between the parties to these presents, that until default shall happen to be made of or in the payment of the said sum of money hereby secured or mentioned, or intended so to be, or the interest thereof, or any part of either of the same, or the doing, observing, performing, fulfilling or keeping some one or more of the provisions, agreements or stipulations herein set forth, contrary to the true intent and meaning

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of these presents, it shall and may be lawful to and for the said mortgagor, his heirs and assigns, peaceably and quietly to have, hold, use, occupy, possess and enjoy the said lands, tenements, hereditaments and premises hereby conveyed or mentioned, or intended so to be, with their and every of their appurtenances, and receive and take the rents, issues and profits thereof to his own use and benefit, without let, suit, hindrance, interruption, or denial of or by the said mortgagee, his heirs, executors, administrators or assigns, or of or by any other person or persons whomsoever lawfully claiming, or who shall, or may lawfully claim by, from, under or in trust for him, her, them or any or either of them.

R. S. O. 1887, c. 107, Schedule B.

2. *INTESTATE SUCCESSION.*

CHAPTER 127.

An Act respecting the Devolution of Estates.

SHORT TITLE, s. 1.	REAL ESTATE VESTS IN HEIRS AND DEVISEES UNLESS CAUTION REGISTERED, ss. 13-15.
APPLICATION OF SECS. 3-11, ss. 2, 3.	POWERS OF EXECUTORS OVER REAL ESTATE, s. 16.
PROPERTY TO DEVOLVE ON PERSONAL REPRESENTATIVE, s. 4.	CONFIRMATION OF CERTAIN SALES, ss. 17-20.
DISTRIBUTION OF PROPERTY OF MARRIED WOMAN DYING INTESTATE, s. 5.	OFFICIAL GUARDIAN MAY FRAME RULES, s. 21.
DISTRIBUTION OF ESTATE OF PERSON DYING INTESTATE AND WITHOUT ISSUE, s. 6.	INTERPRETATION OF TERMS IN SECS. 23-36, s. 22.
APPLICATION OF PROPERTY IN PAYMENT OF DEBTS, s. 7.	DESCENTS BEFORE 1ST JULY, 1834, NOT WITHIN ACT, s. 23.
SALES OF INFANTS' ESTATES, s. 8.	DESCENTS SINCE 1ST JULY, 1834, ss. 24-30.
POWER OF PERSONAL REPRESENTATIVE OVER REAL PROPERTY, s. 9.	DESCENTS BETWEEN 1ST JULY, 1834, AND 1ST JANUARY, 1852, ss. 31-36.
PERSONAL REPRESENTATIVES TO BE DEEMED IN LAW HEIRS, s. 10.	DESCENTS BETWEEN 1ST JANUARY, 1852, AND 1ST JULY, 1886, ss. 37-55.
SALE FREE FROM DOWER, s. 11.	GENERAL PROVISIONS, ss. 56-67.
WIDOWS' PREFERENTIAL SHARES, s. 12.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

- Short title. **1.** This Act may be cited as "*The Devolution of Estates Act.*" R. S. O. 1887, c. 108, s. 1.
- Application of ss. 3-10. **2.** Sections 3 to 10 inclusive of this Act shall apply only to the estates of persons dying on and after the 1st day of July, 1886. R. S. O. 1887, c. 108, s. 2.
- Estates to which ss. 3-10 apply. **3.** Subject as above this and the next seven sections of this Act shall apply:—

- (a) To all estates of inheritance in fee simple, or limited to the heir as special occupant, in any tenements or hereditaments in Ontario, whether corporeal or incorporeal.
- (b) To chattels real in Ontario.
- (c) To all other personal property of any person who has died domiciled in Ontario.

Provided, that all real or personal property comprised in any disposition made by will in exercise of a general testamentary power of appointment shall be deemed to be within the provisions of this section, if otherwise applicable. R. S. O. 1887, c. 108, s. 3.

4.—(1) All such property as aforesaid which is vested in any person, or is comprised in any such disposition as aforesaid made by him, shall on his death, notwithstanding any testamentary disposition, devolve upon and become vested in his legal personal representatives from time to time, and subject to the payment of his debts; and so far as the said property is not disposed of by deed, will, contract or other effectual disposition, the same shall be distributed as personal property not so disposed of is hereafter to be distributed.

Property to devolve on persons and representatives.

(2) Nothing in this Act shall be construed to take away a widow's right to dower; but a widow may by deed or instrument in writing, attested by at least one witness, elect to take her interest under this section in her husband's undisposed of real estate, in lieu of all claims to dower in respect of real estate of which her husband was at any time seised, or to which at the time of his death he was beneficially entitled; and unless she so elects she shall not be entitled to share under this section in the undisposed of real estate aforesaid.

Saving as to dower.

(3) Any husband who, if sections 3 to 9 of this Act had not passed, would be entitled to an interest as tenant by the curtesy in any real estate of his wife, may by deed or instrument in writing executed within six months after his wife's death, and attested by at least one witness, elect to take such interest in the real and personal property of his deceased wife as he would have taken if the said sections of this Act had not passed, in which case the husband's interest therein shall be ascertained in all respects as if the said sections had not passed, and he shall be entitled to no further interest under the said sections of this Act.

Saving as to husband's interest in property of wife.

(4) Where any person applies to be appointed an administrator, and the administration applied for is a general administration, the application and the affidavit in support thereof shall shew the particulars of the real estate of the deceased, and the value or probable value thereof; and the amount of the

Administrator to give account to court of real estate.

security to be given, shall have reference to such value as well as to the value of the other estate of the deceased. R. S. O. 1887, c. 108, s. 4.

Distribution of property of married woman dying intestate.

5. The real and personal property, whether separate or otherwise, of a married woman in respect of which she dies intestate, shall be distributed as follows: One-third to her husband if she leaves issue, and one-half if she leaves no issue, and subject thereto shall go and devolve as if her husband had pre-deceased her. 60 V. c. 14, s. 32.

Distribution of estate of person dying intestate and without issue.

6. When a person shall die without leaving issue, and intestate as to the whole or any part of his real or personal property, his father surviving shall not be entitled to any greater share under the intestacy than his mother or any brother or sister surviving; nor shall a grandfather or grandmother of a person dying intestate share in competition with a surviving father, mother, brother or sister. R. S. O. 1887, c. 108, s. 6.

Application of property in payment of debts.

7. The real and personal property of a deceased person comprised in any residuary devise or bequest shall (except so far as a contrary intention shall appear from his will or any codicil thereto) be applicable ratably, according to their respective values, to the payment of his debts. R. S. O. 1887, c. 108, s. 7.

Sales where infants interested.

8.—(1) Where infants are concerned in real estate which but for the preceding sections of this Act would not devolve on executors or administrators, no sale or conveyance shall be valid under this Act without the written consent or approval of the Official Guardian of infants appointed under *The Judicature Act*, or, in the absence of such consent or approval, without an order of the High Court.

Rev. Stat. c. 31.

Local Guardians in outer counties.

(2) The High Court may appoint the Local Judge of any county or the Local Master therein, as Local Guardian of Infants, in such county during the pleasure of the Court, with authority to give such written consent or approval as aforesaid instead of the Official Guardian; and the Official Guardian and Local Guardian shall be subject to such general orders as the High Court may from time to time make in regard to their authority and duty under this Act. R. S. O. 1887, c. 108, s. 8.

Power of personal representative over real property.

9. Subject as hereinbefore provided, the legal personal representatives from time to time of a deceased person shall have power to dispose of and otherwise deal with all real property vested in them by virtue of the preceding sections of this Act, with all the like incidents, but subject to all the like rights, equities, and obligations, as if the same were personal property vested in them. R. S. O. 1887, c. 108, s. 9.

When personal representatives to be deemed "heirs."

10. When any portion of the real estate of a person dying on or after the first day of July, 1886, vests in his personal representatives under this Act, such personal representatives,

in the interpretation of any Statute of this Province, or in the construction of any instrument to which the deceased was a party, or in which he is interested, shall, while the estate remains in them, be deemed in law his heirs, as respects such portion, unless a contrary intention appears, but nothing in this section contained shall affect the beneficial right to any property, or the construction of words of limitation of any estate in or by any deed, will or other instrument. 60 V. c. 14, s. 31.

11.—(1) Where the personal representatives of a deceased person are desirous of selling any land devolving upon them free from dower they may apply to a Judge of the High Court, and if the Judge approves he may by an order to be made by him in a summary way, upon such evidence as to him seems meet, and either *ex parte* or upon notice (to be served personally unless the Judge otherwise directs) determine whether the land shall be sold free from the right of the dowress; and in making such determination regard shall be had to the interests of all the parties.

Application for order allowing sale of land by personal representatives free of dower.

(2) No *ex parte* order shall be made unless where service upon the dowress cannot be conveniently made.

(3) If a sale free from such dower is ordered, all the right and interest of such dowress shall pass thereby; and no conveyance or release to the purchaser shall be required from such dowress; and the purchaser, his heirs and assigns, shall hold the premises freed and discharged from all claims by virtue of the rights of any such dowress, whether the same be to any undivided share, or to the whole or any part of the premises sold.

(4) In such case the Court or Judge may direct the payment of such sum in gross out of the purchase money to the person entitled to dower as may be deemed, upon the principles applicable to life annuities, a reasonable satisfaction for such right or interest; or may direct the payment, to the person entitled to dower of an annual sum, or of the income or interest to be derived from the purchase money or any part thereof, as may seem just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as may be necessary. 60 V. c. 14, s. 30.

12.—(1) The real and personal estate of every man dying, after the first day of July, 1895, intestate and leaving a widow but no issue shall in all cases where the net value of such real and personal estate does not exceed \$1,000, belong to his widow absolutely and exclusively. 58 V. c. 21, s. 2.

Widow entitled to whole estate not exceeding \$1,000.

(2) Where the net value of the real and personal estate of any person who shall die intestate as in this section mentioned shall exceed the sum of \$1,000, the widow of such intestate

Where estate exceeds \$1,000.

shall after payment of debts, funeral and testamentary expenses and expenses of administration be entitled to \$1,000, part thereof absolutely and exclusively, and shall have a charge upon the whole of such real and personal estate, after payment as aforesaid, for such \$1,000, with interest thereon from the date of the death of the intestate at 4 per cent. per annum until payment. 58 V. c. 21, s. 3.

Widow's share
in remainder
of estate.

(3) The provision for the widow intended to be made by this section shall be in addition and without prejudice to her interest and share in the residue of the real and personal estate of the intestate remaining after payment of the sum of \$1,000 and interest as aforesaid, in the same way as if such residue had been the whole of the intestate's real and personal estate, and this section had not been enacted. 58 V. c. 21, s. 4.

Real estate
not disposed
of within a
year to vest in
heirs unless
Caution reg-
istered.

13.—(1) Real estate of persons dying on or after the 4th day of May 1891 not disposed of or conveyed by executors or administrators within twelve months after the death of the testator or intestate shall, subject to *The Land Titles Act* in the case of land registered under that Act, at the expiration of the said period, whether probate of the will of the testator or letters of administration to the estate of the intestate has been taken or not, be deemed thenceforward to be vested in the devisees or heirs beneficially entitled thereto, as such devisees or heirs, (or their assigns, as the case may be,) without any conveyance by the executors or administrators, unless such executors or administrators, if any, have caused to be registered, in the registry office, or land titles office where the land is under *The Land Titles Act*, of the territory in which such real estate is situate, a Caution under their hands that it is or may be necessary for them to sell the said real estate, or part thereof, under their powers and in fulfilment of their duties in that behalf; and in case of such Caution being so registered, this section shall not apply to the real estate referred to therein for twelve months from the time of such registration, or from the time of the registration of the last of such Cautions if more than one are registered. 54 V. c. 18, s. 1 (1), 56 V. c. 20, ss. 3, 4; 60 V. c. 3, s. 3; c. 14, s. 29 part.

Rev. Stat.
c. 138.

Form of
Caution.

(2) The Caution may be in the form or to the effect following:—

We (A. B and C. D.,) executors of (or administrators with the will annexed of, or administrators of) _____, who died on or about the _____ day of _____, do hereby certify that it may be necessary for us under our powers and in fulfilment of our duties as executors (or administrators) to sell the real estate of the said _____, or part thereof, (or the caution may specify any particular parts or parcels), and of this all persons concerned are hereby required to take notice:—

And the execution of the said Caution shall be verified by the affidavit of a subscribing witness in manner prescribed by *The Registry Act*.

Rev. Stat.
c. 136.

(3) In case the Caution specifies the tracts or parcels which the executors or administrators may have occasion to sell, the Caution shall be effectual as to those tracts or parcels only.

If Caution specifies lands these only affected.

(4) The executors or administrators before the expiration of the twelve months may file a certificate withdrawing the Caution mentioned in the preceding subsections; or withdrawing the same as to any parcel of land specified in such certificate and such certificate of withdrawal may be to the effect following:

Withdrawal of Caution.

We executors (or administrators) of do hereby withdraw the Caution heretofore registered with respect to the real estate of the said , (or as the case may be). 54 V. c. 18, s. 1 (2-4).

(5) The certificate of withdrawal shall be verified by the affidavit of a subscribing witness which shall be in the following form, or to the like effect.

Certificate of withdrawal to be verified on oath.

I, G. H., etc., make oath and say: I am well acquainted with A. B. and C. D. named in the above certificate; that I was present and did see the said certificate signed by the said A. B. and C. D.; that I am a subscribing witness to the said certificate and I believe the said A. B. and C. D. to be the persons who registered the caution referred to in the said certificate. 60 V. c. 15, Sched. A. (42).

(6) Before the expiry of a caution another caution may be registered, and so on from time to time as long as the executors or administrators consider such action necessary and every such caution shall continue in force for twelve months from the time of its registration. 60 V. c. 15, Sched. A. (43).

Renewal of caution.

(7) The limitation of the operation of this section to the real estate of persons dying on or after the 4th day of May, 1891, shall not affect any conveyance made before the 13th day of April, 1897. 60 V. c. 14, s. 29, part.

Certain conveyances not affected.

14. Where executors or administrators have, through oversight or otherwise, omitted to register a Caution within twelve months after the death of the testator or intestate, as provided by the preceding section, or have omitted to re-register a Caution as required by the said section, they may register the Caution in either case notwithstanding the lapse of the twelve months respectively provided for the said purposes, provided they register therewith:—

Registration of Caution after twelve months from death of testator.

Proviso.

1. The affidavit of verification therein mentioned;

2. A further affidavit stating that they find or believe that it is or may be necessary for them to sell the real estate of the testator or intestate (or the part thereof mentioned in the caution, as the case may be,) under their powers and in fulfilment of their duties in that behalf;

3. The consent in writing of any adult devisees or heirs whose property or interest would be affected ; and
4. An affidavit verifying such consent ; or
5. In the absence and in lieu of such consent, an order signed by a High Court Judge or County Court Judge, or the certificate of the Official Guardian approving of and authorizing the Caution to be registered, which order or certificate the Judge or Official Guardian may make with or without notice on such evidence as satisfies him of the propriety of permitting the Caution to be registered ; and the order to be registered shall not require verification and shall not be rendered null by any defect or supposed defect of form or otherwise.

56 V. c. 20, s. 1.

Effect of registration.

15. In case of such caution being registered or re-registered under the authority of the preceding section such Caution shall have the same effect as a Caution registered within twelve months from the death of the testator or intestate, save as regards persons who in the meantime may have acquired rights for valuable consideration from or through the heirs or devisees, or some of them ; and save also and subject to any equities on the part of non-consenting heirs and devisees, or persons claiming under them, for improvements made after the expiration of twelve months from the death of the testator or intestate, if their lands are afterwards sold by such executors or administrators. 56 V. c. 20, s. 2.

Executors, etc., to have certain powers as to disposition of lands.

16.—(1) Executors and administrators in whom the real estate of a deceased person is vested under this Act shall be deemed to have as full power to sell and convey such real estate for the purpose, not only of paying debts, but also of distributing or dividing the estate among the parties beneficially entitled thereto whether there are debts or not, as they have in regard to personal estate ; Provided always that where infants or lunatics are beneficially entitled to such real estate as heirs or devisees, or where other heirs or devisees do not concur in the sale, and there are no debts, no such sale shall be valid as respects such infants, lunatics, or non-concurring heirs or devisees, unless the sale is made with the approval of the Official Guardian appointed under *The Judicature Act* ; and for this purpose the Official Guardian aforesaid shall have the same powers and duties as he has in the case of infants.

Proviso.

Rev. Stat. c. 51.

Application of section.

(2) This section shall not apply to any administrator where the letters of administration are limited to the personal estate, exclusive of the real estate, and shall not derogate from any right possessed by an executor or administrator independently of this Act. 54 V. c. 18, s. 2.

17. (1) Sales of such real estate as aforesaid made prior to the 4th day of May, 1891, by executors and administrators with the written consent or approval of the Official Guardian, as required by section 8 of this Act, shall be deemed valid as respects all the heirs and devisees, whether infants or of full age though there were no debts of the deceased to be paid out of the proceeds.

Certain past sales made with approval of Official Guardian confirmed.

(2) The approval of the Official Guardian to be expressed in writing under his hand shall be sufficient to confirm and render valid, as respects all the heirs and devisees though there were no debts of the deceased to be paid out of the proceeds, any sale made prior to the said 4th day of May, 1891, in any case in which the value of the infant's share is under \$50.

Certain past sales may be confirmed by Official Guardian.

(3) Sales of such real estate as aforesaid made prior to the said 4th day of May, 1891, by executors and administrators in other cases shall be adjudicated upon according to equity and good conscience in view of all the circumstances and every sale which has been made in good faith and for a fair consideration shall be held valid.

Other cases of past sales.

(4) Every sale made prior to the said 4th day of May, 1891, shall be valid unless it was questioned in an action within one year from the said date, except in any case where under this Act the approval of the Official Guardian was required and was not obtained.

Certain past sales valid unless questioned within one year.

(5) In case any sale made prior to the 4th day of May, 1891, is now, or heretofore has been, the subject of an action, and relief is given to either party under this section, the party obtaining such relief shall pay the costs of the action. 54 V. c. 18, s. 3.

Where past sale has been subject of action.

18. Where prior to the 4th day of May, 1891, there had been a sale by executors or administrators, no infant being concerned and no consent or approval of the Official Guardian having been obtained, but the person or one of the persons, beneficially entitled has received and accepted, or shall hereafter receive and accept, his share or supposed share of the purchase money, such acceptance shall be deemed a confirmation of the sale as respects such person. 54 V. c. 18, s. 4.

Persons accepting share of purchase money to be deemed by sale.

19. Persons *bona fide* purchasing real estate from the executors or administrators of a deceased owner in manner authorized by this Act shall be entitled to hold the same freed and discharged from any debts or liabilities of the deceased owner not specifically charged thereon otherwise than by his will, and from all claims of his devisees and heirs at law as such, and the purchasers shall not be bound to see to the application of the purchase money. 54 V. c. 18, s. 5.

Bona fide purchasers of estate to hold same free from debts.

Bona fide purchasers of estate from devisee to hold same free from debts.

Proviso.

Rules of procedure.

Appointment of Deputy Official Guardian *pro tem*.

Affidavits.

Interpretation.

"Land."

20. Persons *bona fide* purchasing real estate from a devisee whose devise has been assented to by the executors or administrators by deed, or by writing under their hand, or *bona fide* purchasing the real estate from any heir at law or devisee to whom the same has been conveyed by the executors or administrators shall be entitled to hold the same freed and discharged from any unsatisfied debts and liabilities of the deceased owner not specifically charged thereon otherwise than by his will; but nothing herein contained shall lessen or alter the rights of creditors as against the executors or administrators personally, or the rights of creditors as against any devisee, heir at law or next of kin in whom real estate of a deceased debtor has been vested by the executors or administrators, or permitted to become vested, to the prejudice of such creditors. 54 V. c. 18, s. 6.

21.—(1) The Official Guardian shall have power with the approval of the Lieutenant-Governor in Council, or of the Judges of the High Court of Justice, to frame Rules regulating the practice and procedure to be followed in all proceedings under this Act, in which the privity or consent of such Official Guardian shall be required; and also to frame a tariff of the fees to be allowed and paid to solicitors for services rendered in such proceedings. Such Rules and tariffs when approved as aforesaid shall be published in the *Ontario Gazette*, and shall thereupon have the force of law; and the same shall be laid before the Legislative Assembly at the next session after the promulgation thereof.

(2) In case the Lieutenant-Governor sees occasion in consequence of the illness or absence of the Official Guardian or for any other cause, he may appoint a person to act as the Deputy *pro tem*, of the Official Guardian for the purposes of this Act; and a deputy appointed by the Lieutenant-Governor shall have all the powers of the Official Guardian as respects the said purposes.

(3) Affidavits may be used in proceedings taken in pursuance of this Act; and such affidavits may be sworn before any Commissioner for taking affidavits or before a Notary Public. 54 V. c., 18, s. 7.

22. The words and expressions hereinafter mentioned which in their ordinary signification have a more confined or a different meaning, shall, where they occur in the next fourteen sections, numbered from 23 to 36 inclusive, except where the nature of the provision or the context thereof excludes such construction, be interpreted as follows, that is to say:

1. "Land" shall extend to messuages, and all other hereditaments, whether corporeal or incorporeal, and to money to be

laid out in the purchase of land, and to chattels and other personal property transmissible to heirs, and also to any share of the same hereditaments and properties, or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency ;

2 "The purchaser" shall mean the person who last acquired "Purchaser," the land otherwise than by descent or than by any partition, by the effect of which the land becomes part of, or descendible in the same manner as, other land acquired by descent ;

3. "Descent" shall mean the title to inherit land by reason "Descent." of consanguinity, as well where the heir is an ancestor or collateral relation, as where he is a child or other issue ;

4. "Descendants" of any ancestor shall extend to all persons "Descendants of any ancestor." who must trace their descent through such ancestor ;

5. "The person last entitled" to land shall extend to the "Person last entitled to land." last person who had a right thereto, whether he did or did not obtain the possession or the receipt of the rents and profits thereof ;

6. "Assurance" shall mean any deed or instrument (other "Assurance." than a will), by which any land may be conveyed or transferred at law or in equity. R. S. O. 1887, c. 108, s. 11 (1-6).

DESCENTS BEFORE 1ST JULY, 1834.

23. This Act shall not extend to any descent which took place on the death of any person who died before the first day of July, 1834. R. S. O. 1887, c. 108, s. 12. Act not to extend to descents before 1st July, 1834.

DESCENTS SINCE 1ST JULY, 1834.

24. The next six sections of this Act, numbered from 25 to 30 inclusive, shall not have operation retrospectively to a period of time anterior to the sixth day of March, 1834, so as, by force of any of their provisions, to render any title valid, which in regard to any particular estate had, prior to that day, been adjudged, or has been or may be in any suit which was depending on that day, adjudged invalid on account of any defect, imperfection, matter or thing which is by such sections altered, supplied or remedied; but in every such case the law in regard to any such defect, imperfection, matter or thing, shall, as applied to such title, be deemed and taken to The next seven sections not to operate retrospectively in certain cases.

be as if those sections of this Act had not been passed. R. S. O. 1887, c. 108, s. 13.

Descent shall always be traced from the purchaser.

Who to be deemed purchaser.

Imp. Act, 3-4 W. iv. c. 106, s. 2.

25. In every case on and after the first day of July, 1834, descent shall be traced from the purchaser; and to the intent that the pedigree may never be carried further back than the circumstances of the case and the nature of the title require, the person last entitled to the land shall for the purposes of this Act be considered to have been the purchaser thereof, unless it is proved that he inherited the same, in which case the person from whom he inherited the same shall be considered to have been the purchaser, unless it is proved that he inherited the same; and, in like manner, the last person from whom the land is proved to have been inherited shall in every case be considered to have been the purchaser, unless it is proved that he inherited the same. R. S. O. 1887, c. 108, s. 14.

Heir entitled under a will shall take as devisee, and a limitation to the grantor or his heir shall create an estate by purchase.

Imp. Act, 3-4 W. iv. c. 106, s. 3.

26. Where land is devised by a testator dying after the first day of July, 1834, to the heir or to the person who shall be the heir of such testator, such heir shall be considered to have acquired the land as a devisee and not by descent; and where any land is limited by any assurance, executed after the said first day of July, 1834, to the person or to the heirs of the person who thereby conveys the same land, such person shall be considered to have acquired the same as a purchaser, by virtue of such assurance, and shall not be considered to be entitled thereto as of his former estate or part thereof. R. S. O. 1887, c. 108, s. 15.

Where heirs take by purchase under limitations to the heirs of their ancestor the land shall descend, as if the ancestor had been the purchaser.

Imp. Act, 3-4 W. iv. c. 106, s. 4.

27. Where a person acquires land by purchase, under a limitation to the heirs, or to the heirs of the body of any of his ancestors, contained in an assurance executed after the first day of July, 1834, or under a limitation to the heirs, or to the heirs of the body of any of his ancestors, or under any limitation having the same effect, contained in a will of any testator dying after the said first day of July, 1834, then and in any of such cases, such land shall descend, and the descent thereof shall be traced as if the ancestor named in such limitation had been the purchaser of such land. R. S. O. 1887, c. 108, s. 16.

After the death of a person attainted, his descendants may inherit.

Imp. Act, 3-4 W. iv. c. 106, s. 10.

28. Where the person from whom the descent of any land is to be traced has had any relation who, having been attainted, died before such descent took place, then such attainder shall not prevent any person from inheriting such land who would have been capable of inheriting the same by tracing his descent through such relation if he had not been attainted, unless such land escheated in consequence of such attainder before the first day of July, 1834. R. S. O. 1887, c. 108, s. 17.

29. Proof of entry by the heir after the death of the ancestor shall in no case be necessary in order to prove title in such heir, or in any person claiming by or through him. R. S. O. 1887, c. 108, s. 18.

Proof of entry by heirs not necessary.

30. Where any assurance executed before the said first day of July, 1834, or the will of any person who died before that day, contains any limitation or gift to the heir or heirs of any person under which the person or persons answering the description of heir is entitled to an estate by purchase, then the person or persons who would have answered such description of heir if this Act had not been passed shall become entitled by virtue of such limitation or gift, whether the person named as ancestor was or was not living on or after the said first day of July, 1834. R. S. O. 1887, c. 108, s. 19.

Limitations made before 1st July, 1834, to the heirs of a person then living, shall take effect as if this Act had not been passed.

Imp. Act, 3-4 W. iv. c. 106, s. 12.

DESCENTS BETWEEN 1ST JULY, 1834, AND 1ST JANUARY, 1852.

31. As respects every descent between the first day of July, 1834, and the thirty-first day of December, 1851, both days included, and as respects any descent not included or provided for in the sections of this Act numbered from 41 to 67, both included, the following sections, numbered from 32 to 36, both included, shall apply retrospectively to the first day of July, 1834, and also prospectively, as the case may be, and shall be construed as if the same had been passed on the said first day of July, 1834. R. S. O. 1887, c. 108, s. 21.

Descents between the 1st July, 1834, and 31st December, 1851.

32. No brother or sister shall be considered to inherit immediately from his or her brother or sister, but every descent from a brother or sister shall be traced through the parent. R. S. O. 1887, c. 108, s. 22.

Brothers and sisters shall trace descent through parents. Imp. Act, s. 5.

33. Every lineal ancestor shall be capable of being heir to any of his issue, and in any case where there is no issue of the purchaser, his nearest lineal ancestor shall be his heir in preference to any person who would have been entitled to inherit, either by tracing his descent through such lineal ancestor, or in consequence of there being no descendant of such lineal ancestor; so that the father shall be preferred to a brother or sister, and a more remote lineal ancestor to any of his issue, other than a nearer lineal ancestor or his issue. R. S. O. 1887, c. 108, s. 23.

Lineal ancestor to be heir in preference to collateral persons claiming through him.

Imp. Act 3-4 W. iv. c. 106, s. 6.

34. None of the maternal ancestors of the person from whom the descent is to be traced, nor any of their descendants, shall be capable of inheriting until all his paternal ancestors and their descendants have failed; and no female paternal ancestor of such person, nor any of her descendants, shall be capable of inheriting until all his male paternal ancestors and their descendants have failed; and no female maternal ancestor of such person, nor any of her descendants, shall be capable of inheriting

The male line to be preferred.

Imp. Act, 3-4 W. iv. c. 106, s. 7.

ing until all his male maternal ancestors and their descendants have failed. R. S. O. 1887, c. 108, s. 24.

The mother of the more remote male ancestor to be preferred to the mother of less remote male ancestor.

Imp. Act, 3-4 W. iv. c. 106, s. 8.

35. Where there is a failure of male paternal ancestors of the person from whom the descent is to be traced, and their descendants, the mother of his more remote male paternal ancestor, or her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male paternal ancestor, or her descendants; and where there is a failure of male maternal ancestors of such person, and their descendants, the mother of his more remote male maternal ancestor, and her descendants, shall be the heir or heirs of such person, in preference to the mother of a less remote male maternal ancestor and her descendants. R. S. O. 1887, c. 108, s. 25.

Half blood to inherit after the whole blood of the same degree.

Imp. Act, 3-4 W. iv. c. 106, s. 9.

36. Any person related to the person from whom the descent is to be traced by the half blood, shall be capable of being his heir, and the place in which any such relation by the half blood shall stand in the order of inheritance, so as to be entitled to inherit, shall be next after any relation in the same degree of the whole blood and his issue, where the common ancestor is a male, and next after the common ancestor where such common ancestor is a female; so that the brother of the half blood on the part of the father shall inherit next after the sisters of the whole blood on the part of the father and their issue, and the brother of the half blood on the part of the mother shall inherit next after the mother. R. S. O. 1887, c. 108, s. 26.

DESCENTS BETWEEN 1ST JANUARY, 1852, AND 1ST JULY, 1886.

Descents between the 1st January, 1852, and 1st July, 1886

37. The twenty seven sections numbered from 41 to 67, both included, shall apply retrospectively to the first day of January, 1852 inclusive, and also prospectively, as the case may be, and shall be construed as if the same had been passed on the said first day of January, 1852, but sections 38 to 55 inclusive shall not apply to estates of persons dying on or after the 1st day of July, 1886; and sections 56 to 67 inclusive shall, as to the estates of such last mentioned persons, apply only subject to the provisions of sections 1 to 21 inclusive. 60 V. c. 15, s. 3.

Interpretation as to sections 41 to 67.

38. In the said twenty-seven sections of this Act numbered from 41 to 67, both inclusive—

“Real estate.”

1. “Real estate” shall be construed to include every estate, interest and right, legal and equitable, held in fee simple or for the life of another (except as in section 59 is excepted) in lands, tenements and hereditaments in Ontario, but not such as are determined or extinguished by the death of the intestate seised or possessed thereof, or so otherwise entitled thereto, nor to leases for years; and

2. "Inheritance," as therein used, shall be understood to mean real estate as herein defined, descended or succeeded to, according to the provisions of the said twenty-seven sections. R. S. O. 1887, c. 108, s. 28.

39. Where, in the said sections, numbered from 41 to 67 both included, any person is described as living, it shall be understood that he was living at the time of the death of the intestate from whom the descent or succession came, and where any person is described as having died, it shall be understood that he died before such intestate. R. S. O. 1887, c. 108, s. 29.

40. Where in any of the said sections the expressions "where the estate came to the intestate on the part of the father" or "mother," as the case may be, are used, the same shall be construed to include every case where the inheritance came to the intestate by devise, gift or descent from the parent referred to, or from any relative of the blood of such parent. R. S. O. 1887, c. 108, s. 30.

41. Where any person dies seised in fee simple or for the life of another of any real estate in Ontario, without having lawfully devised the same, such real estate shall descend or pass by way of succession in manner following, that is to say:—

Firstly. To the lineal descendants of the intestate, and those claiming by or under them, *per stirpes*;

Secondly. To his father;

Thirdly. To his mother; and

Fourthly. To his collateral relatives

subject in all cases to the rules and regulations hereinafter prescribed. R. S. O. 1887, c. 108, s. 31.

42. If the intestate leaves several descendants in the direct line of lineal descent, and all of equal degree of consanguinity to such intestate, the inheritance shall descend to such persons in equal parts, however remote from the intestate the common degree of consanguinity may be. R. S. O. 1887, c. 108, s. 32.

43. If one or more of the children of such intestate are living and one or more are dead, the inheritance shall descend to the children who are living, and to the descendants of such children as have died; so that each child who is living shall inherit such share as would have descended to him if all the children of the intestate, who have died leaving issue, had been living; and so that the descendants of each child who is dead shall inherit in equal shares the share which their parent would have received if living. R. S. O. 1887, c. 108, s. 33.

Same rule as to other descendants in unequal degrees of consanguinity.

44. The rule of descent prescribed in the last preceding section shall apply in every case where the descendants of the intestate, entitled to share in the inheritance, are of unequal degrees of consanguinity to the intestate, so that those who are in the nearest degree of consanguinity shall take the shares which would have descended to them, had all the descendants in the same degree of consanguinity who have died leaving issue, been living, and so that the issue of the descendants who have died, shall respectively take the shares which their parents, if living, would have received. R. S. O. 1887, c. 108, s. 34.

If the intestate leaves no descendant, right of father, mother, etc.

45. In case the intestate dies without lawful descendants and leaving a father, then the inheritance shall go to such father, unless the inheritance came to the intestate on the part of his mother, and such mother is living; and if such mother is dead, the inheritance descending on her part shall go to the father for life, and the reversion to the brothers and sisters of the intestate and their descendants, according to the law of inheritance by collateral relatives hereinafter provided; and if there are no such brothers or sisters, or their descendants living such inheritance shall descend to the father. R. S. O. 1887 c. 108, s. 35.

If there is no father entitled to inherit.

46. If the intestate dies without descendants and leaving no father, or leaving a father not entitled to take the inheritance under the last preceding section, and leaving a mother and brothers or sisters, or the descendants of brothers or sisters, then the inheritance shall descend to the mother during her life, and the reversion to such brothers or sisters of the intestate, as are living, and the descendants of such as are dead, according to the same law of inheritance hereinafter provided; and if the intestate in such case leaves no brother or sister, nor any descendant of any brother or sister, the inheritance shall descend to the mother. R. S. O. 1887, c. 108, s. 36.

If there is neither father nor mother.

47. If there is no father or mother capable of inheriting the estate, it shall descend in the cases hereinafter specified to the collateral relatives of the intestate; and if there are several of such relatives all of equal degree of consanguinity to the intestate, the inheritance shall descend to them in equal parts, however remote from the intestate the common degree of consanguinity may be. R. S. O. 1887, c. 108, s. 37.

Succession of brothers and sisters and their descendants.

48. If all the brothers and sisters of the intestate are living, the inheritance shall descend to such brothers and sisters; and if any one or more of them are living and any one or more are dead, then to the brothers and sisters and every of them who are living, and to the descendants of such brothers and sisters as have died, so that each brother or sister who is living shall inherit such share as would have descended to him or her, if all the brothers or sisters of the intestate who have died leaving issue had been living, and so that such descendants shall

inherit in equal shares the share which their parent, if living, would have received. R. S. O. 1887, c. 108, s. 38.

49. The same law of inheritance prescribed in the last section shall prevail as to the other direct lineal descendants of every brother and sister of the intestate, to the remotest degree, wherever such descendants are of unequal degree. R. S. O. 1887, c. 108, s. 39.

As to such descendants in unequal degrees.

50. If there is no heir entitled to take under any of the preceding thirteen sections, the inheritance if the same came to the intestate on the part of his father, shall descend :

If there be no heir under the preceding 13 sections.

Firstly. To the brothers and sisters of the father of the intestate in equal shares, if all are living;

Secondly. If one or more are living, and one or more have died leaving issue, then to such brothers and sisters as are living, and to the descendants of such of the said brothers and sisters as have died—in equal shares;

Thirdly. If all such brothers and sisters have died, then to their descendants; and in all such cases the inheritance shall descend in the same manner as if all such brothers and sisters had been the brothers and sisters of the intestate. R. S. O. 1887, c. 108, s. 40.

51. If there be no brothers or sisters, or any of them, of the father of the intestate, and no descendants of such brothers or sisters, then the inheritance shall descend to the brothers and sisters of the mother of the intestate, and to the descendants of such of the said brothers and sisters as have died, or if all have died, then to their descendants, in the same manner as if all such brothers and sisters had been the brothers and sisters of the father. R. S. O. 1887, c. 108, s. 41.

Further provision.

52. In all cases not provided for by the next preceding fifteen sections, where the inheritance came to the intestate on the part of his mother, the same, instead of descending to the brothers and sisters of the intestate's father, and their descendants, as prescribed in section 50, shall descend to the brothers and sisters of the intestate's mother, and to their descendants, as directed in the last preceding section; and if there are no such brothers and sisters or descendants of them, then the inheritance shall descend to the brothers and sisters, and their descendants, of the intestate's father, as before prescribed. R. S. O. 1887, c. 108, s. 42.

Further provision if the intestate came on the mother's side.

53. In cases where the inheritance did not come to the intestate on the part of either the father or the mother, the inheritance shall descend to the brothers and sisters both of the father and mother of the intestate in equal shares, and to their des-

If estate came neither on father's nor mother's side.

cendants, in the same manner as if all such brothers and sisters had been the brothers and sisters of the intestate. R. S. O. 1887, c. 108, s. 43.

Half blood to
succeed with
whole blood.

54. Relatives of the half blood shall inherit equally with those of the whole blood in the same degree, and the descendants of such relatives shall inherit in the same manner as the descendants of the whole blood, unless the inheritance came to the intestate by descent, devise or gift from some one of his ancestors; in which case all those who are not of the blood of such ancestor shall be excluded from such inheritance. R. S. O. 1887, c. 108, s. 44.

In cases not
provided for,
22-23 Car. ii,
c. 10, and 29
Car. ii. c. 3,
to apply.

55. On failure of heirs under the preceding rules, the inheritance shall descend to the remaining next of kin of the intestate, according to the rules in the English Statute of Distribution of Personal Estate. R. S. O. 1887, c. 108, s. 45.

GENERAL PROVISIONS.

Co-heirs to
take as tenants
in common.

56. Where there is but one person entitled to inherit according to the provisions of section 37 and following sections of this Act, he shall take and hold the inheritance solely; and where an inheritance, or a share of an inheritance, descends to several persons under such provisions, they shall take as tenants in common, in proportion to their respective rights. R. S. O. 1887, c. 108, s. 46.

Descendants,
etc., born after
death of intestate,
to inherit.

57. Descendants and relatives of the intestate begotten before his death, but born thereafter, shall in all cases inherit in the same manner as if they had been born in the lifetime of the intestate and had survived him. R. S. O. 1887, c. 108, s. 47.

Illegitimate
persons not to
inherit.

58. Children and relatives who are illegitimate shall not be entitled to inherit under any of the provisions of this Act. R. S. O. 1887, c. 108, s. 48.

Curtesy,
dower and
estates by
deed or will,
not affected.
Rev. Stat.
c. 128.

59. The estate of the husband as tenant by the curtesy, or of a widow as tenant in dower, shall not be affected by any of the provisions of the last preceding twenty-two sections of this Act, nor except as provided by section 31 of *The Wills Act of Ontario* shall the same affect any limitation of any estate by deed or will, or any estate which, although held in fee simple or for the life of another, is so held in trust for any other person, but all such estates shall remain, pass and descend, as if the last twenty-two sections of this Act numbered from 37 to 58, both included had not been passed. R. S. O. 1887, c. 108, s. 49.

Cases of children who have
been advanced
by settlement,
etc.

60. If any child of an intestate has been advanced by the intestate by settlement, or portion of real or personal estate, or

both of them, and the same has been so expressed by the intestate in writing, or so acknowledged in writing by the child, the value thereof shall be reckoned, for the purposes of this section only, as part of the real and personal estate of such intestate descendible to his heirs, and to be distributed to his next of kin according to law; and if such advancement is equal or superior to the amount of the share which such child would be entitled to receive of the real and personal estate of the deceased, as above reckoned, then such child and his descendants shall be excluded from any share in the real and personal estate of the intestate. R. S. O. 1887, c. 108, s. 50.

61. If such advancement is not equal to such share, such child and his descendants shall be entitled to receive so much only of the personal estate, and to inherit so much only of the real estate of the intestate, as is sufficient to make all the shares of the children in such real and personal estate and advancement to be equal, as nearly as can be estimated. R. S. O. 1887, c. 108, s. 51.

If such advancement be not equal.

62. The value of any real or personal estate so advanced shall be deemed to be that, if any, which has been acknowledged by the child by any instrument in writing, otherwise such value shall be estimated according to the value of the property when given. R. S. O. 1887, c. 108, s. 52.

Value of property advanced, how estimated.

63. The maintaining or educating, or the giving of money to a child, without a view to a portion or settlement in life shall not be deemed an advancement within the meaning of this Act. R. S. O. 1887, c. 108, s. 53.

Education, etc., not advancement.

64. The parties authorized to make partition of any such real estate according to law, shall receive from any of the persons entitled to a share of such real estate, an offer or proposition to purchase the share or shares of the other parties interested therein, giving the preference to the person who would have been the heir-at-law thereto, had section 37 and the following sections of this Act not been passed; and next after such heir-at-law, giving such preference to the several persons successively who would have been such heir-at-law, had the said last mentioned sections of this Act not been passed, and had those persons preceding them respectively in the series of such preference been dead at the time of the death of the intestate. R. S. O. 1887, c. 108, s. 54.

As to the right of the parties interested in real estate subject to partition to purchase.

65. The parties so authorized to make such partition shall certify particularly to the Court in which proceedings for a partition are commenced or pending, the particulars of such offer or proposition for purchase, the nature, quantity and value of the estate or share proposed to be purchased, and whether

Particulars of offer to purchase to be certified to the Court.

they advise such offer or proposition to be accepted or rejected, and their reasons therefor. R. S. O. 1887, c. 108, s. 55.

Any Court authorized to make partition may direct a sale, giving preference to the heir-at-law, etc.

66. Any Court authorized to make partition of real estate may direct a sale of the same if it thinks it right so to do, upon the application of any of the parties beneficially interested therein, giving however the preference at all times to the person who would have been the heir-at-law to such real estate had section 37 and the following sections of this Act not been passed, and after such heir-at-law, then giving such preference to the several persons successively who would have been such heir-at-law, had the said last mentioned sections of this Act not been passed, and had those persons preceding them respectively in the series of such preference been dead at the time of the death of the intestate. R. S. O. 1887, c. 108, s. 56.

Terms on which preference to be given, etc.

67. Every such preference shall be upon and subject to such terms, security and conditions, as the Court thinks it right to direct. R. S. O. 1887, c. 108, s. 57.

3. *WILLS, EXECUTORS AND TRUSTEES.*

CHAPTER 128.

An Act respecting Wills.

SHORT TITLE, s. 1.

WILLS BEFORE 1ST JANUARY, 1874,
ss. 2-6.

WILLS AFTER 1ST JANUARY, 1874 :

PRELIMINARY, ss. 7-9.

PROPERTY DISPOSABLE BY WILL, AND
PERSONS WHO MAY DISPOSE BY
WILL, ss. 10, 11.

EXECUTION OF WILLS, ss. 12-15.

Wills of soldiers and sailors, s. 14.

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16-19.

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CONSTRUCTION OF WILLS :

Devise, etc., to operate upon any
interest remaining in testator,
s. 25.Operation of wills from time of
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duary devise, s. 27.General devise what to include,
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lapse by death of a devisee, ss.
35, 36.Mortgage debts and charges pri-
marily chargeable on land,
ss. 37, 38.

IMPERIAL ACTS REPEALED, s. 39.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows :—

1. This Act may be cited as "*The Wills Act of Ontario.*" Short title.
R. S. O. 1887, c. 109, s. 1.

WILLS BEFORE 1ST JANUARY, 1874.

2. In the next succeeding three sections of this Act the word "land" shall extend to messuages, and all other hereditaments, whether corporeal or incorporeal, and to money to be laid out in the purchase of land, and to chattels and other personal property transmissible to heirs, and also to any share of the same hereditaments and properties,

Interpreta-
tion.
"Land."

or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency. R. S. O. 1887, c. 109, s. 2.

Estates acquired after the making of a will may pass by the will where such intention is expressed.

3. Where a will made before and not re-executed, republished or revived after the first day of January, 1874, by any person dying after the sixth day of March, 1834, contains a devise in any form of words of all such real estate as the testator dies seised or possessed of, or of any part or proportion thereof, such will shall be valid and effectual to pass any land acquired by the devisor after the making of such will, in the same manner as if the title thereto had been acquired before the making thereof. R. S. O. 1887, c. 109, s. 3.

A devise of land shall be taken to carry as large an estate as the testator had in the land, unless a contrary intention is expressed.

4. Where land is devised in any such will as aforesaid, it shall be considered that the devisor intended to devise all such estate as he was seised of in the same land, whether in fee simple or otherwise, unless it appears upon the face of such will that he intended to devise only an estate for life, or other estate less than he was seised of at the time of making the will containing such devise. R. S. O. 1887, c. 109, s. 4.

Witnesses need not subscribe in the presence of the testator.

5. Any will affecting land executed after the sixth day of March, 1834, and before the first day of January, 1874, in the presence of and attested by two or more witnesses, shall have the same validity and effect as if executed in the presence of and attested by three witnesses; and it shall be sufficient if the witnesses subscribed their names in presence of each other, although their names were not subscribed in presence of the testator. R. S. O. 1887, c. 109, s. 5.

Will by married woman between 4th May, 1859, and 1st January, 1874.

6. After the fourth day of May, 1859, and before the first day of January, 1874, every married woman might, by devise or bequest executed in the presence of two or more witnesses, neither of whom was her husband, make any devise or bequest of her separate property, real or personal, or of any rights therein, whether such property was acquired before or after marriage, to or among her child or children issue of any marriage, and failing there being any issue, then to her husband, or as she might see fit, in the same manner as if she were sole and unmarried. R. S. O. 1887, c. 109, s. 6.

WILLS AFTER 1ST JANUARY, 1874.

Operation of succeeding sections.

7. Unless herein otherwise expressly provided, the subsequent sections of this Act shall not extend to any will made before the first day of January, 1874; but every will re-executed or re-published, or revived by any codicil, shall, for the purposes of the said sections, be deemed to have been made

at the time at which the same was so re-executed, re-published or revived. R. S. O. 1887, c. 109, s. 7. Imp. Act 1 V. c. 26, s. 34,

8. Sections 21, 22, 25 and 26 of this Act shall not apply to the will of any person who was dead before the first day of January, 1869, but shall apply to the will of every person who has died since the thirty-first day of December, 1868, or who dies after the passing of this Act. R. S. O. 1887, c. 109, s. 8. Application of sections 21, 22 25 and 26.

9. In the construction of the sections numbered 10 to 39 inclusive in this Act, Interpretation. Imp. Act 1 V. c. 26, s. 1.

1. "Will" shall extend to a testament, and to a codicil, and to an appointment by will, or by writing in the nature of a will in exercise of a power, and also to a disposition by will and testament, or devise of the custody and tuition of any child, by virtue of the Act passed in the twelfth year of the reign of King Charles the Second, entitled "*An Act for taking away the Court of Wards, and liveries and tenures in capite, and by knight's service and purveyance, and for settling a revenue upon His Majesty in lieu thereof,*" and to any other testamentary disposition; "Will." 12 Car. II. c. 24.

2. "Real estate" shall extend to messuages, lands, rents, and hereditaments, whether freehold or of any other tenure, and whether corporeal, incorporeal or personal, and to any undivided share thereof, and to any estate, right, or interest (other than a chattel interest) therein; "Real-estate."

3. "Personal estate" shall extend to leasehold estates and other chattels real, and also to moneys, shares of government and other funds, securities for money (not being real estates), debts, choses in action, rights, credits, goods, and all other property whatsoever which by law devolves upon the executor or administrator, and to any share or interest therein; "Personal estate."

4. "Mortgage" shall include any lien for unpaid purchase money, and any charge, incumbrance, or obligation of any nature whatever upon any lands or tenements of a testator or intestate. R. S. O. 1887, c. 109, s. 9. "Mortgage." Imp. Act 30-31 V. c. 69, s. 2.

5. "Person" and "Testator" shall include a married woman. 60 V. c. 3, s. 3. See R. S. O. 1877, c. 106, s. 9 (4): R. S. O. 1887, c. 132, s. 3 (1). "Person" "Testator"

10. Every person may devise, bequeath, or dispose of by will executed in manner hereinafter mentioned, all real estate and personal estate to which he may be entitled, at the time of his death, and which, if not so devised, bequeathed, or disposed of, would devolve upon his heir at law, or upon his executor or administrator; and the power hereby given shall extend to estates *pur autre vie*, whether there be or be not any special occupant thereof, and whether the same be corporeal or incorporeal hereditaments; and also to all contingent, executory, or other future interests in any real or personal estate, whether the testator be or be not ascertained as Power to dispose of all property. Imp. Act 1 V. c. 26, s. 3. Estates *pur autre vie*. Contingent interests.

Rights of
entry.

Property ac-
quired after
the will.

the person or one of the persons in whom the same may respectively become vested, and whether he be entitled thereto under the instrument by which the same were respectively created, or under any disposition thereof by deed or will, and also to all rights of entry for conditions broken and other rights of entry, and also to such of the same estates, interests and rights respectively, and other real and personal estate, as the testator may be entitled to at the time of his death, notwithstanding that he may become entitled to the same subsequently to the execution of his will. R. S. O. 1887, c. 109, s. 10.

Wills by in-
fants invalid.
Imp. Act 1 V.
c. 26, s. 7.

11. No will made by any person under the age of twenty-one years shall be valid. R. S. O. 1887, c. 109, s. 11.

Execution.
Imp. Act 1 V.
c. 26, s. 9.

12.—(1) No will shall be valid unless it is in writing, and executed in manner hereinafter mentioned; that is to say, it shall be signed at the foot or end thereof by the testator, or by some other person in his presence, and by his direction; and such signature shall be made or acknowledged by the testator, in the presence of two or more witnesses present at the same time, and such witnesses, shall attest and shall subscribe the will in the presence of the testator; but no form of attestation shall be necessary.

Attestation.

Signature.
Imp. Act 15-
16 V. c. 24, s. 1.

(2) Every will, so far only as regards the position of the signature of the testator, or of the person signing for him as aforesaid, shall be deemed to be valid, within the meaning of this Act, if the signature is so placed, at, or after, or following, or under, or beside, or opposite to the end of the will, that it is apparent on the face of the will that the testator intended to give effect by such signature to the writing signed as his will; and no such will shall be affected by the circumstance that the signature does not follow or is not immediately after the foot or end of the will, or by the circumstance that a blank space intervenes between the concluding word of the will and the signature, or by the circumstance that the signature is placed among the words of the *testimonium* clause, or of the clause of attestation, or follows or is after or under the clause of attestation either with or without a blank space intervening, or follows, or is after, or under, or beside the names or one of the names of the subscribing witnesses, or by the circumstance that the signature is on a side, or page, or other portion of the paper or papers containing the will, whereon no clause or paragraph or disposing part of the will is written above the signature, or by the circumstance that there appears to be sufficient space on or at the bottom of the preceding side or page or other portion of the same paper on which the will is written to contain the signature; and the enumeration of the above circumstances shall not restrict the generality of the above enactment; but no signature under this Act shall be operative to give effect to any disposition or direction which is underneath, or

which follows it, nor shall it give effect to any disposition or direction inserted after the signature was made. R. S. O. 1887, c. 109, s. 12.

13. No appointment made by will, in exercise of any power, shall be valid, unless the same is executed in manner hereinbefore required; and every will executed in manner hereinbefore required, shall, so far as respects the execution and attestation thereof, be a valid execution of a power of appointment by will, notwithstanding it has been expressly required that a will made in exercise of such power shall be executed with some additional or other form of execution or solemnity. R. S. O. 1887, c. 109, s. 13.

Appointments by will how to be exercised.
Imp. Act 1 V.
c. 26, s. 10.

14. Any soldier being in actual military service, or any mariner or seaman being at sea, may dispose of his personal estate as he might have done before the passing of this Act. R. S. O. 1887, c. 109, s. 14.

Wills of personalty of soldiers and sailors.
Imp. Act 1 V.
c. 26, s. 11.

15. Every will executed in manner hereinbefore required shall be valid without any other publication thereof. R. S. O. 1887, c. 109, s. 15.

Publication unnecessary.
Imp. Act 1 V.
c. 26, s. 13.

16. If any person who attests the execution of a will is, at the time of the execution thereof, or becomes at any time afterwards, incompetent to be admitted a witness to prove the execution thereof, such will shall not on that account be invalid. R. S. O. 1887, c. 109, s. 16.

Will not invalid if witness incompetent.
Imp. Act 1 V.
c. 26, s. 14.

17. If any person attests the execution of any will, to whom, or to whose wife or husband, any beneficial devise, legacy, estate, interest, gift, or appointment of or affecting any real or personal estate (other than and except charges and directions for the payment of any debt or debts) is thereby given or made, such devise, legacy, estate, interest, gift, or appointment shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person, or any person claiming under such person or such wife or husband, be utterly null and void, and such person so attesting shall be admitted as a witness to prove the execution of such will, or to prove the validity or invalidity thereof, notwithstanding such devise, legacy, estate, interest, gift, or appointment mentioned in such will. R. S. O. 1887, c. 109, s. 17.

Gifts, etc., to witness invalid.
Imp. Act 1 V.
c. 26, s. 15.

18. In case by any will any real or personal estate is charged with any debt or debts, and any creditor, or the wife or husband of any creditor whose debt is so charged attests the execution of such will, such creditor, notwithstanding such charge, shall be admitted a witness to prove the execution of such will, or to prove the validity or invalidity thereof. R. S. O. 1887, c. 109, s. 18.

Creditors competent witnesses.
Imp. Act 1 V.
c. 26, s. 16.

Executor competent witness.

Imp. Act 1 V. c. 26, s. 17.

19. No person shall, on account of his being an executor of a will, be incompetent to be admitted a witness to prove the execution of such will, or a witness to prove the validity or invalidity thereof. R. S. O. 1887, c. 109, s. 19.

Revocation by marriage.

Imp. Act 1 V. c. 26, s. 18.

20.—(1) Every will made by any person dying on or after the 13th day of April, 1897, shall be revoked by the marriage of the testator, except in the following cases, namely:—

Exceptions.

(a) Where it is declared in the will that the same is made in contemplation of such marriage;

(b) Where the wife or husband of the testator elects to take under the will, by an instrument in writing signed by the wife or husband and filed within one year after the testator's death in the office of the surrogate clerk at Toronto;

(c) Where the will is made in the exercise of a power of appointment and the real or personal estate thereby appointed would not, in default of such appointment, pass to the testator's heir, executor or administrator, or the person entitled as the testator's next of kin under *The Statute of Distribution*. 60 V. c. 20, s. 1.

Imp. Act 22-23 Chas. II. c. 10, 29 Chas. II, c. 3.

(2) The will of any testator who died between the 31st day December, 1868, and the 13th day of April, 1897, shall be held to have been revoked by his subsequent marriage, unless such will was made under the circumstances set forth in clause (c). R. S. O. 1887, c. 109, s. 20.

No revocation by change in circumstances.

Imp. Act 1 V. c. 26, s. 19.

21. No will shall be revoked by any presumption of an intention, on the ground of an alteration in circumstances. R. S. O. 1887, c. 109, s. 21. *See section 8 of this Act.*

How only will can be revoked.

Imp. Act 1 V. c. 26, s. 20.

22. No will or codicil or any part thereof, shall be revoked otherwise than as aforesaid, or by another will or codicil executed in manner hereinbefore required, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is hereinbefore required to be executed, or by the burning, tearing, or otherwise destroying the same, by the testator, or by some person in his presence and by his direction, with the intention of revoking the same. R. S. O. 1887, c. 109, s. 22. *See section 8 of this Act.*

Obliterations, interlineations, etc.

Imp. Act 1 V. c. 26, s. 21.

23. No obliteration, interlineation or other alteration made in any will after the execution thereof, shall be valid or have any effect, except so far as the words or effect of the will before such alteration are not apparent, unless such alteration is executed in like manner as hereinbefore is required for the execution of the will; but the will, with such alteration as part thereof, shall be deemed to be duly executed, if the signature of the testator and the subscription of the witnesses are made

in the margin or in some other part of the will opposite or near to such alteration, or at the foot or end of, or opposite to, a memorandum referring to such alteration, and written at the end or in some other part of the will. R. S. O. 1887, c. 109, s. 23.

24. No will or codicil, or any part thereof, which has been in any manner revoked, shall be revived otherwise than by the re-execution thereof, or by a codicil executed in manner hereinbefore required, and shewing an intention to revive the same; and where any will or codicil which has been partly revoked, and afterwards wholly revoked, is revived, such revival shall not extend to so much thereof as was revoked before the revocation of the whole thereof, unless an intention to the contrary is shewn. R. S. O. 1887, c. 109, s. 24.

Revival.
Imp. Act 1 V.
c. 26, s. 22.

25. No conveyance or other act made or done subsequently to the execution of a will, of or relating to any real or personal estate therein comprised, except an act by which such will is revoked as aforesaid, shall prevent the operation of the will with respect to such estate, or interest in such real or personal estate, as the testator had power to dispose of by will at the time of his death. R. S. O. 1887, c. 109, s. 25. *See section 8 of this Act.*

No act as to property named in the will to prevent operation of the will as to any interest left in testator.
Imp. Act 1 V.
c. 26, s. 23.

26.—(1) Every will shall be construed, with reference to the real and personal estate comprised in it, to speak and take effect as if it had been executed immediately before the death of the testator, unless a contrary intention appears by the will. R. S. O. 1887, c. 109, s. 26.

Will to speak from death.
Imp. Act 1 V.
c. 26, s. 24.

(2) This section shall apply to the will of a married woman made during coverture, whether she is or is not possessed of or entitled to any separate property at the time of making it, and such will shall not require to be re-executed or re-published after the death of her husband. 60 V. c. 22, s. 2. *See section 8 of this Act.*

Imp. Act
56-57 V. c. 68,
s. 3.

27. Unless a contrary intention appears by the will, such real estate or interest therein as is comprised or intended to be comprised in any devise, in such will contained, which fails or becomes void by reason of the death of the devisee in the lifetime of the testator, or by reason of such devise being contrary to law, or otherwise incapable of taking effect, shall be included in the residuary devise (if any) contained in such will. R. S. O. 1887, c. 109, s. 27.

Lapsed devise to sink into residuary devise.
Imp. Act 1 V.
c. 26, s. 25.

28. A devise of the land of the testator, or of the land of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner and any other general devise which would describe a leasehold estate, if the testator had no freehold estate which could be described by it, shall be construed to include his leasehold estates, or any of them to which such description will extend

Leaseholds, when may pass under a general devise.
Imp. Act 1 V.
c. 26, s. 26.

(as the case may be), as well as freehold estates, unless a contrary intention appears by the will. R. S. O. 1887, c. 109, s. 28.

A general devise of realty or personalty to include property over which testator has a general power of appointment. Imp. Act 1 V. c. 26, s. 27.

29. A general devise of the real estate of the testator, or of the real estate of the testator in any place or in the occupation of any person mentioned in his will, or otherwise described in a general manner, shall be construed to include any real estate, or any real estate to which such description will extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will; and in like manner a bequest of the personal estate of the testator, or any bequest of personal estate described in a general manner, shall be construed to include any personal estate, or any personal estate to which such description will extend (as the case may be), which he may have power to appoint in any manner he may think proper, and shall operate as an execution of such power, unless a contrary intention appears by the will. R. S. O. 1887, c. 109, s. 29.

General devise to pass whole estate in the land devised. Imp. Act 1 V. c. 26, s. 28. Rev. Stat. c. 127.

30. Where any real estate is devised to any person without any words of limitation, such devise shall, subject to *The Devolution of Estates Act*, be construed to pass the fee simple, or other the whole estate or interest, which the testator had power to dispose of by will, unless a contrary intention appears by the will. R. S. O. 1887, c. 109, s. 30.

Meaning of "heir" in a devise of real estate.

31. Where any real estate is devised by any testator, dying on or after the 5th day of March, 1880, to the heir or heirs of such testator, or of any other person, and no contrary or other intention is signified by the will, the words "heir" and "heirs" shall be construed to mean the person or persons to whom such real estate would descend under the law of Ontario in case of an intestacy. R. S. O. 1887, c. 109, s. 31.

Import of words "die without issue," or to that effect. Imp. Act 1 V. c. 26, s. 29.

32. In any devise or bequest of real or personal estate, the words "die without issue," or "die without leaving issue," or "have no issue," or any other words which import either a want or failure of issue of any person in his lifetime, or at the time of his death, or an indefinite failure of his issue, shall be construed to mean a want or failure of issue in the lifetime or at the time of the death of such person, and not an indefinite failure of his issue, unless a contrary intention appears by the will, by reason of such person having a prior estate tail, or of a preceding gift being, without any implication arising from such words, a limitation of an estate tail to such person or issue, or otherwise: but this Act shall not extend to cases where such words as aforesaid import if no issue described in a preceding gift be born, or if there be no issue who live to attain the age, or otherwise answer the description required for obtaining a vested estate by a preceding gift to such issue. R. S. O. 1887, c. 109, s. 32.

Proviso.

33. Where any real estate is devised to a trustee or executor, such devise shall be construed to pass the fee simple, or other the whole estate or interest which the testator had power to dispose of by will in such real estate, unless a definite term of years absolute or determinable, or an estate of freehold is thereby given to him expressly or by implication. R. S. O. 1887, c. 109, s. 33.

34. Where any real estate is devised to a trustee without any express limitation of the estate to be taken by such trustee, and the beneficial interest in such real estate, or in the surplus rents and profits thereof, is not given to any person for life, or such beneficial interest is given to any person for life, but the purposes of the trust may continue beyond the life of such person, such devise shall, subject to *The Devolution of Estates Act*, be construed to vest in such trustee the fee simple or other the whole legal estate which the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust are satisfied. R. S. O. 1887, c. 109, s. 34.

35. Where any person to whom any real estate is devised for an estate tail or an estate in *quasi* entail, dies in the lifetime of the testator, leaving issue who would be inheritable under such entail, and any such issue are living at the time of the death of the testator, such devise shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R. S. O. 1887, c. 109, s. 35.

36. Where any person, being a child or other issue of the testator, to whom any real or personal estate is devised or bequeathed for any estate or interest not determinable at or before the death of such person, dies in the lifetime of the testator, leaving issue, and any of the issue of such person are living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will. R. S. O. 1887, c. 109, s. 36.

37.—(1) Where any person has died since the 31st day of December, 1865, or hereafter, dies testate or intestate, or is entitled to any estate or interest in any real estate, which, at the time of his death, was or is charged with the payment of any sum or sums of money by way of mortgage, and such person has not, by his will or deed or other document, signified any contrary or other intention, the heir or devisee to whom such real estate descends or is devised shall not be entitled to have the mortgage debt discharged or satisfied out of the personal estate, or any other real estate of such person; but the real estate so charged shall, as between the different persons claiming

When devise to trustee or executor shall pass whole estate of testator. Imp. Act 1 V. c. 26, s. 30.

When devise to a trustee shall pass the fee simple, or other the whole legal estate which the testator had power to dispose of by will in such real estate, and not an estate determinable when the purposes of the trust are satisfied. Imp. Act 1 V. c. 20, s. 31. Rev. Stat. c. 127.

When devise of estates tail shall not lapse. Imp. Act 1 V. c. 26, s. 32.

Gifts to issue who leave issue on testator's death, shall not lapse. Imp. Act 1 V. c. 26, s. 33.

Mortgage debts to be primarily chargeable on the land. Imp. Act 17 18 V. c. 113.

through or under the deceased person, be primarily liable to the payment of all mortgage debts with which the same is charged, every part thereof according to its value bearing a proportionate part of the mortgage debts charged on the whole thereof.

Proviso.

(2) Nothing herein contained shall affect or diminish any right of the mortgagee on such real estate to obtain full payment or satisfaction of his mortgage debt, either out of the personal estate of the person so dying as aforesaid, or otherwise; and nothing herein contained shall affect the rights of any person claiming under or by virtue of any will, deed, or document made before the first day of January, 1874. R. S. O. 1887, c. 109, s. 37.

Also liens for unpaid purchase money, etc. Imp. Act 40-41 V. c. 15, s. 4.

(3) Where any person dies on or after the 13th day of April, 1897, seized of or entitled to any estate or interest in any real estate, which at the time of his death is charged with the payment of any sum of money by way of equitable charge, including any lien for unpaid purchase money, the provisions of this section shall apply to such charge in the same manner as they would be applicable if such charge were a mortgage. 60 V. c. 15, s. 4.

Consequence of direction that testator's debts be paid out of personality. Imp. Act 30-31 V. c. 69, s. 1, and 40-41 V. c. 34.

38. In the construction of any will or deed or other document to which the next preceding section of this Act relates, a general direction that the debts or that all the debts of the testator shall be paid out of his personal estate shall not be deemed to be a declaration of an intention contrary to or other than the rule in the said section contained, unless such contrary or other intention is further declared by words expressly or by necessary implication referring to all or some of the testator's debts or debt charged by way of mortgage on any part of his real estate. R. S. O. 1887, c. 109, s. 38.

Acts repealed.

39. The Acts of the Imperial Parliament described in the Schedule to this Act (except so far as the same relate to any wills to which section 7 and the following sections of this Act do not extend) are, and shall continue to be, repealed to the extent in the third column of the said Schedule mentioned; but such repeal shall not revive any Act or provision of law repealed by them, nor shall the said repeal prevent the application of any of the said Acts, or of any Act or provision of law formerly in force, to any transaction, matter or thing anterior to the time of the repeal of the said Acts and to which they would otherwise apply. R. S. O. 1887, c. 109, s. 39.

SCHEDULE.

ACTS REPEALED.	TITLE OF ACTS REPEALED.	EXTENT OF REPEAL.
32 Hen. 8, cap. 1	The Act of Wills. Wards and The whole Act. Primer Seizins, whereby a man may devise two parts of his land.	
34-35 Hen. 8, cap. 5.	The Bill concerning the explana- The whole Act. tion of Wills.	
29 Car. 2, cap. 3.	An Act for the prevention of Sections 5, 6, 12, Frauds and Perjuries.	19, 20, 21 and 22.
4-5 Anne, cap. 16.	An Act for the amendment of Section 14. the law and the better ad- vancement of justice.	
14 Geo. 2, cap. 20.	An Act to amend the law con- Section 9. cerning Common Recoveries, and to explain and amend an Act made in the twenty-ninth year of the reign of King Charles the Second, intituled “An Act for the prevention of Frauds and Perjuries.”	
25 Geo. 2, cap. 6.	An Act for avoiding and putting The whole Act. an end to certain doubts and questions relating to the at- testation of Wills and Codicils concerning real estates in that part of Great Britain called England, and in His Majesty's colonies and plantations in America.	

CHAPTER 129.

An Act respecting Trustees and Executors and the Administration of Estates.

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INTERPRETATION, s. 2, 27.

RIGHTS AND LIABILITIES OF TRUSTEES :

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Appointment of new trustees, s. 4.

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Application to Court for advice, s. 39.

ALLOWANCES TO TRUSTEES AND EXECUTORS, ss. 40-44.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title.

1. This Act may be cited as "*The Trustee Act*."

Interpretation.

2. In the construction of this Act the words "Will," "Real Estate," and "Personal Estate," shall have the meaning assigned to them respectively by section 9, of *The Wills Act of Ontario*. R. S. O. 1887, c. 110, s. 1.

Rev. Stat. c. 128.

RIGHTS AND LIABILITIES OF TRUSTEES.

Every trust instrument to be deemed to contain clause

3. Every deed, will, or other document creating a trust, either expressly or by implication, shall, without prejudice to the

clauses actually contained therein, be deemed to contain a clause in the words or to the effect following, that is to say:—"That the trustees or trustee, for the time being, of the said deed, will or other instrument, shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive, notwithstanding their respectively signing any receipt for the sake of conformity, and shall be answerable and accountable only for their own acts, receipts, neglects or defaults, and not for those of each other, nor for any banker, broker, or other person with whom any trust moneys or securities may be deposited; nor for the insufficiency or deficiency of any stocks, funds, or securities, nor for any other loss, unless the same shall happen through their own wilful default respectively; and also that it shall be lawful for the trustees or trustee for the time being, of the said deed, will or other instrument, to reimburse themselves or himself, or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument." R. S. O. 1887, c. 110, s. 2.

for the indemnity and reimbursement of the trustees, Imp. Act 22-23 V. c. 35, s. 31.

4.—(1) Where a trustee, either original or substituted and whether appointed by the High Court or otherwise, dies, or desires to be discharged from, or refuses, or becomes unfit or incapable, to act in the trusts or powers in him reposed, before the same have been fully discharged and performed, it shall be lawful for the person or persons nominated for that purpose by the deed, will or other instrument creating the trust (if any), or if there be no such person, or no such person able and willing to act, then for the surviving or continuing trustees or trustee for the time being, or the acting executors or executor or administrators or administrator of the last surviving and continuing trustee, or for the last retiring trustee, by writing, to appoint any other person or persons to be a trustee or trustees, in place of the trustee or trustees dying, or desiring to be discharged, or refusing, or becoming unfit, or incapable to act as aforesaid; and so often as any new trustee or trustees is or are so appointed as aforesaid, all the trust property (if any), which for the time being is vested in the surviving or continuing trustees or trustee, or in the heirs, executors or administrators of any trustees or trustee, shall, with all convenient speed be conveyed, assigned and transferred, so that the same may be legally and effectually vested in such new trustee or trustees, either solely or jointly with the surviving or continuing trustees, or a surviving or continuing trustee, as the case may require; and every new trustee to be appointed as aforesaid, as well before as after such conveyance, assignment or transfer as aforesaid, and also every trustee appointed by the High Court, either before or after the passing of this Act, shall have the same powers, authorities and discretions, and shall in all respects act as if he had originally been nominated a trustee by the deed, will, or other instrument creating the trust.

Appointment of new trustees. Imp. Act 23-24 V. c. 145, s. 27.

(2) The power of appointing new trustees hereinbefore contained, may be exercised in cases where a trustee, nominated in a will, has died in the lifetime of the testator. R. S. O. 1887, c. 110, s. 3.

Vesting of trust property in new or continuing trustees without conveyance.

Imp. Act 44 and 45, V. c. 41, s. 34.

5.—(1) Where an instrument by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust, or in any chattel so subject, or the right to recover and receive any debt or other thing in action so subject, shall vest in the persons who by virtue of such instrument become and are the trustees for performing the trust, that declaration shall, without any conveyance or assignment, operate to vest in those persons, as joint tenants, and for the purposes of the trust, that estate, interest or right.

(2) Where an instrument by which a retiring trustee is discharged under this Act contains such a declaration as is in this section mentioned by the retiring and continuing trustees, and by the other person, if any, empowered to appoint trustees, that declaration shall, without any conveyance or assignment, operate to vest in the continuing trustees alone, as joint tenants, and for the purposes of the trust, the estate, interest, or right to which the declaration relates.

(3) This section does not extend to any share, stock, annuity, or property only transferable in books kept by a company or other body, or in manner prescribed by or under an Act of Parliament or of this Legislature.

(4) For purposes of registration of an instrument in any registry, the person or persons making the declaration shall be deemed the conveying party or parties, and the conveyance shall be deemed to be made by him or them under a power conferred by this Act.

(5) This section applies only to instruments executed after the 1st day of July, 1886. R. S. O. 1887, c. 110, s. 4.

Trustees buying or selling.

Rev. Stat. c. 134.

6. Trustees who are vendors or purchasers may sell or buy without excluding the application of section 2 of *The Vendors and Purchasers Act*. R. S. O. 1887, c. 110, s. 5.

Fee simple estates of bare trustees to vest in their personal representatives.

7. Upon the death of a bare trustee of any corporeal or incorporeal hereditament of which such trustee was seised in fee simple, such hereditaments shall vest in the legal personal representative, from time to time, of such trustee. R. S. O. 1887, c. 110, s. 6.

Conveyances by married woman as bare trustee.

8. Where any freehold hereditament is vested in a married woman as a bare trustee, she may convey or surrender the same as if she were a *feme sole*, and without her husband joining in the conveyance. R. S. O. 1887, c. 110, s. 7.

9. The *bona fide* payment of any money to and the receipt thereof by any person to whom the same is payable upon any express or implied trust, or for any limited purpose, and such payment to and receipt by the survivors or survivor of two or more mortgagees or holders or the executors or administrators of such survivor or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the trust or security. R. S. O. 1887, c. 110, s. 8. [See also *Cap. 121, sec. 14.*]

Receipts of trustees to be effectual discharges.

RIGHTS AND LIABILITIES OF EXECUTORS, ETC.

10. The executors or administrators of any deceased person may maintain an action for all torts or injuries to the person or to the real or personal estate of the deceased, except in cases of libel and slander, in the same manner, and with the same rights and remedies as the deceased would, if living, have been entitled to do; and the damages when recovered shall form part of the personal estate of the deceased; but such action shall be brought within one year after his decease. R. S. O. 1887, c. 110, s. 9.

Actions by executors and administrators for torts.

11. In case any deceased person committed a wrong to another in respect of his person, or of his real or personal property, the person so wronged may maintain an action against the executors or administrators of the person who committed the wrong. The action shall be brought at latest within one year after the decease. This section shall not apply to libel or slander. R. S. O. 1887, c. 110, s. 10.

Actions against executors and administrators for torts.

12. In estimating the damages in any action under either of the next preceding two sections, the benefit, gain, profit or advantage which, in consequence of or resulting from the wrong committed, may have accrued to the estate of the person who committed the wrong, shall be taken into consideration, and shall form part, or may constitute the whole, of the damages to be recovered, and whether or not any property, or the proceeds or value of property, belonging to the person bringing the action or to his estate, has or have been appropriated by or added to the estate or moneys of the person who committed the wrong. R. S. O. 1887, c. 110, s. 11.

Damages in actions under two preceding sections.

13. The executors or administrators of any lessor or landlord may distrain upon the lands demised for any term or at will, for the arrears of rent due to such lessor or landlord in his lifetime, in like manner as such lessor or landlord might have done if living. R. S. O. 1887, c. 110, s. 12.

Executors or administrators of a lessor may distrain for arrears.

14. Such arrears may be distrained for at any time within six months after the determination of the term or lease,

Such arrears of rent may be distrained for

within six months after determination of the lease.

and during the continuance of the possession of the tenant from whom the arrears became due; and the powers and provisions contained in the several statutes relating to distresses for rent shall be applicable to the distresses so made as aforesaid. R. S. O. 1887, c. 110, s. 13.

Representatives of deceased joint contractors liable although the other joint contractors be living.

15. In case any one or more joint contractors, obligors or partners die, the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners, may proceed by action against the representatives of the deceased contractor, obligor or partner, in the same manner as if the contract, obligation or promise, had been joint and several, and this, notwithstanding there may be another person liable under such contract, obligation or promise still living, and an action pending against such person; but the property and effects of stockholders in chartered banks or the members of other incorporated companies, shall not be liable to a greater extent than they would have been if this section had not been passed. R. S. O. 1887, c. 110, s. 15.

[As to discharges of mortgages by executors, etc., see *The Act respecting Mortgages of Real Estate, Cap. 121, secs. 11, 12 and 13.*]

Devisee in trust may raise money by sale or mortgage to satisfy charges, notwithstanding want of express power in the will. Imp. Act 22-23 V. c. 35, s. 14.

16. Where, by any will coming into operation after the eighteenth day of September, 1865, or after the passing of this Act, a testator charges his real estate, or any specific portion thereof, with the payment of his debts or with the payment of any legacy or other specific sum of money, and devises the estate so charged to any trustee or trustees for the whole of his estate or interest therein, and does not make any express provision for the raising of such debt, legacy or sum of money out of such estate, the said devisee or devisees in trust, notwithstanding any trusts actually declared by the testator, may raise such debt, legacy or money as aforesaid by a sale and absolute disposition, by public auction or private contract, of the said real estate or any part thereof, or by a mortgage of the same, or partly in one mode and partly in the other, and any deed or deeds of mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same think proper. R. S. O. 1887, c. 110, s. 18.

Power given by last section extended to survivors, devisees, etc. Imp. Act 22-23 V. c. 35, s. 15.

17. The powers conferred by the next preceding section shall extend to all and every the person or persons in whom the estate devised is for the time being vested by survivorship, descent or devise, or to any person or persons appointed under any power in the will or by the High Court to succeed to the trusteeship vested in such devisee or devisees in trust as aforesaid. R. S. O. 1887, c. 110, s. 19.

18. If a testator who creates such a charge as is described in section 16 does not devise the real estate charged as aforesaid in such terms as that his whole estate and interest therein become vested in any trustee or trustees, the executor or executors for the time being named in the will (if any) shall have the same or the like power of raising the said moneys as is hereinbefore conferred upon the devisee or devisees in trust of the said real estate; and such powers shall from time to time devolve to and become vested in the person or persons (if any) in whom the executorship is for the time being vested; but any sale or mortgage under this Act shall operate only on the estate and interest of the testator. R. S. O. 1887, c. 110, s. 20.

Executor to have power of raising money where there is no sufficient devise. Imp. Act, 22-23 V. c. 35, s. 16.

19. Purchasers or mortgagees shall not be bound to inquire whether the powers conferred by the preceding three sections of this Act, or any of them, have been duly and correctly exercised by the person or persons acting in virtue thereof. R. S. O. 1887, c. 110, s. 21.

Purchasers, etc., not bound to inquire as to exercise of powers. Imp. Act, 22-23 V. c. 35, s. 17.

20. The provisions contained in the preceding four sections shall not in any way prejudice or affect any sale or mortgage already made or hereafter to be made under or in pursuance of any will coming into operation before the 18th day of September, 1865; but the validity of any such sale or mortgage shall be ascertained and determined in all respects as if the said sections had not been enacted; and the said several sections shall not extend to a devise to any person or persons in fee or in tail, or for the testator's whole estate and interest charged with debts or legacies, nor shall they affect the power of any such devisee or devisees to sell or mortgage as he or they may by law now do. R. S. O. 1887, c. 110, s. 22.

Sections 16 to 19 not to affect certain sales nor to extend to devises in fee or in tail. Imp. Act, 22-23 V. c. 35, s. 18.

21. Where there is in any will or codicil of any deceased person, whether such will has been made, or such person has died before or after the 1st day of January, 1874, any direction whether express or implied, to sell, dispose of, appoint, mortgage, incumber or lease any real estate, and no person is by the said will, or some codicil thereto, or otherwise by the testator appointed to execute and carry the same into effect, the executor or executors (if any) named in such will or codicil shall and may execute and carry into effect every such direction to sell, dispose of, appoint, incumber or lease such real estate, and any estate or interest therein, in as full, large, and ample a manner, and with the same legal effect, as if the executor or executors of the testator were appointed by the testator to execute and carry the same into effect. R. S. O. 1887, c. 110, s. 23.

Direction to sell, etc., may be exercised by executor when no other person is appointed to exercise same.

22. Where there is in any will or codicil thereto of any deceased person, (whether such will has been made, or such person has died before or after the first day of January, 1874,

Administrator with will annexed may exercise pow-

ers of sale,
given to the
executor.

Rev. Stat.
c. 59.

any power to any executor or executors in such will to sell, dispose of, appoint, mortgage, incumber, or lease any real estate, or any estate or interest therein, whether such power is express, or arises by implication, and where, from any cause, letters of administration with such will annexed have been by a Court of competent jurisdiction in Ontario committed to any person, and such person has given the additional security required by section 58 of *The Surrogate Courts Act*, such person shall and may exercise every such power, and sell, dispose of, appoint, mortgage, incumber, or lease such real estate, and any estate or interest therein in as full, large, and ample a manner, and with the same legal effect for all purposes, as the said executor or executors might have done. R. S. O. 1887, c. 110, s. 24.

Or when no
one named in
the will to ex-
ecute powers
of sale, etc.

23. Where there is in any will or codicil thereto of any deceased person (whether such will has been made or such person has died before or after the first day of January, 1874,) any power to sell, dispose of, appoint, mortgage, incumber, or lease any real estate, or any estate or interest therein, whether such power is express, or arises by implication, and no person is by the said will, or some codicil thereto, or otherwise by the testator appointed to execute such power, and letters of administration with such will annexed, have been by a Court of competent jurisdiction in Ontario, committed to any person, and such person has given the additional security before mentioned such person shall and may exercise every such power, and sell, dispose of, appoint, mortgage, incumber or lease such real estate, and any estate or interest therein, in as full, large, and ample a manner, and with the same legal effect, as if such last named person had been appointed by the testator to execute such power. R. S. O. 1887, c. 110, s. 25.

Executors,
etc., may con-
vey in pur-
suance of a
contract for
sale made by
deceased.

24. Where any person has entered into a contract in writing for the sale and conveyance of real estate, or of any estate or interest therein, and such person has died intestate, or without providing by will for the conveyance of such real estate, or estate or interest therein, to the person entitled or to become entitled to such conveyance under such contract, then, if the deceased would be liable to execute a conveyance, were he alive, the executor, administrator, or administrator with the will annexed (as the case may be), of such deceased person, shall make and give to the person entitled to the same a good and sufficient conveyance or conveyances of such estates, and of such nature as the said deceased, if living, would be liable to give, but without covenants, except as against the acts of the grantor; and such conveyances shall be as valid and effectual as if the deceased were alive at the time of the making thereof, and had executed the same, but shall not have any further validity. R. S. O. 1887, c. 110, s. 26.

25. Every executor, administrator, and administrator with the will annexed, shall, as respects the additional powers vested in him by this Act, and any money or assets by him received in consequence of the exercise of such powers, be subject to all the liabilities, and compellable to discharge all the duties of whatsoever kind, which, as respects the acts to be done by him under such powers, would have been imposed upon an executor or other person appointed by the testator to execute the same, or in case of there being no such executor or person, would have been imposed by law upon any person appointed by law, or by any Court or Judge of competent jurisdiction to execute such powers. R. S. O. 1887, c. 110, s. 27.

Duties and liabilities of an executor and administrator acting under the powers in this Act.

26. Where there are several executors, administrators, or administrators with the will annexed, and one or more of them die, the powers hereby created shall vest in the survivor or survivors. R. S. O. 1887, c. 110, s. 28.

Powers given by this Act to two or more to survive.

[As to investment of moneys received for infants under Life Assurance Policies. See Cap. 203, section 155, sub-s. 5.]

27.—(1) For the purposes of the next five sections of this Act the expression “trustee” shall be deemed to include an executor or administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee.

Interpretation as to next five sections.

“Trustee.”

(2) The provisions of the said five sections relating to a trustee shall apply as well to several joint trustees as to a sole trustee.

Extend to joint trustees.

(3) The expression “instrument” shall include an Act of the Legislature of Ontario. 54 V. c. 19, s. 2 (1, 2, 4).

“Instrument.”

(4) The said five sections shall apply as well to trusts created by an instrument executed before as to trusts created on or after the 4th day of May 1891 and the powers by the said sections conferred are in addition to the powers conferred by the instrument, if any, creating the trust; Provided always that save as in the said sections expressly provided, nothing therein contained shall authorize any trustee to do anything which he is in express terms forbidden to do, or to omit to do anything which he is in express terms directed to do by the instrument creating the trust. 54 V. c. 19, ss. 3, 14.

Apply to all trusts.

Proviso.

28.—(1) It shall be lawful for a trustee to appoint a solicitor to be his agent to receive and give a discharge for any money or any valuable consideration of property receivable by such trustee under the trust; and no trustee shall be chargeable with breach of trust by reason only of his having made or concurred in making any such appointment; Provided that nothing herein contained shall exempt a trustee from any liability which he would have incurred if this section had not

Appointment of agents by trustees for certain purposes. Imp. Act 51-52 V. c. 59, s. 2. Proviso.

been enacted in case of permitting such money, valuable consideration, or property to remain in the hands or under the control of the solicitor for a period longer than is reasonably necessary to enable the solicitor to pay or transfer the same to the trustee.

(2) It shall be lawful for a trustee to appoint a banker or solicitor to be his agent to receive and give a discharge for any money payable to such trustee under or by virtue of a policy of assurance or otherwise; and no trustee shall be chargeable with a breach of trust by reason only of his having made or concurred in making any such appointment; Provided that nothing herein contained shall exempt a trustee from any liability which he would have incurred if this section had not been enacted, in case he permits such money to remain in the hands or under the control of the banker or solicitor for a period longer than is reasonably necessary to enable him to pay the same to the trustee.

(3) This section shall apply only where the money or valuable consideration or property was or is received on or after the 4th day of May 1891. 54 V. c. 19, s. 7.

Sales by trustees not impeachable on certain grounds. Imp. Act 51-52 V. c. 59, s. 3.

29.—(1) No sale made by a trustee shall be impeached by any *cestui que trust* upon the ground that any of the conditions subject to which the sale was made, were unnecessarily depreciatory, unless it also appears that the consideration for the sale was thereby rendered inadequate.

(2) No sale made by a trustee shall after the execution of the conveyance be impeached as against the purchaser, upon the ground that any of the conditions subject to which the sale was made were unnecessarily depreciatory, unless it appears that such purchaser was acting in collusion with the trustee at the time when the contract for the sale was made.

(3) No purchaser, upon any sale made by a trustee, shall be at liberty to make any objection against the title upon the ground aforesaid.

(4) This section shall apply only to sales made on or after the 4th day of May 1891. 54 V. c. 19, s. 8.

Trustee committing breach of trust at instigation of beneficiary. Imp. Act 51-52 V. c. 59, s. 6.

30.—(1) Where a trustee has committed a breach of trust at the instigation or request or with the consent in writing of a beneficiary, the Court may, if it thinks fit, and notwithstanding that the beneficiary is a married woman entitled for her separate use, whether with or without a restraint upon anticipation, make such order as to the Court seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him.

(2) This section shall apply to breaches of trust committed as well before as after the 4th day of May 1891, except where

an action or other proceeding was then pending with reference thereto. 54 V. c. 19, s. 11.

31.—(1) It shall be lawful for, but not obligatory upon, a trustee to insure against loss or damage by fire any building or other insurable property to any amount (including the amount of any insurance already on foot) not exceeding three equal fourth parts of the full value of such building or property, and to pay the premiums for such insurance out of the income thereof or out of the income of any other property, subject to the same trusts, without obtaining the consent of any person entitled wholly or partly to such income.

Powers of trustees to insure trust property.
Imp. Act 51-
52 V. c. 59,
s. 7.

(2) This section shall not apply to any building or property which a trustee is bound forthwith to convey absolutely to any *cestui que trust* upon being requested to do so. 54 V. c. 19, s. 12.

LIMITATION OF ACTIONS.

32.—(1) In any action or other proceeding against a trustee or any person claiming through him, except where the claim is founded upon any fraud or fraudulent breach of trust to which the trustee was party or privy, or is to recover trust property, or the proceeds thereof, still retained by the trustee, or previously received by the trustee and converted to his use, the following provisions shall apply:—

Application of Statutes of limitations to certain actions against trustees.
Imp. Act 51-52 V. c. 59, s. 8.

(a) All rights and privileges conferred by any statute of limitations shall be enjoyed in the like manner and to the like extent as they would have been enjoyed in such action or other proceeding if the trustee or person claiming through him had not been a trustee or person claiming through a trustee.

(b) If the action or other proceeding is brought to recover money or other property, and is one to which no existing statute of limitations applies, the trustee or person claiming through him shall be entitled to the benefit of, and be at liberty to plead, the lapse of time as a bar to such action or other proceeding in the like manner and to the like extent as if the claim had been against him in an action of debt for money had and received; but so nevertheless that the statute shall run against a married woman entitled in possession for her separate use, whether with or without restraint upon anticipation, but shall not begin to run against any beneficiary unless and until the interest of such beneficiary becomes an interest in possession.

(2) No beneficiary, as against whom there would be a good defence by virtue of this section, shall derive any greater or

other benefit from a judgment or order obtained by another beneficiary than he could have obtained if he had brought the action or other proceeding, and this section had been pleaded.

(3) This section shall apply only to actions or other proceedings commenced after the first day of January, 1892, and shall not deprive any executor or administrator of any right or defence to which he is entitled under any existing statute of limitations. 54 V. c. 19, s. 13.

ADMINISTRATION OF ESTATES.

Powers of executors to settling debts owing from or to their estates.

33.—(1) It shall be lawful for any executors to pay any debts or claims upon any evidence that they may think sufficient, and to accept any composition or any security, real or personal, for any debts due to the deceased, and to allow any time for payment of any such debts as they may think fit, and also to compromise, compound, or submit to arbitration all debts, accounts, claims and things whatsoever relating to the estate of the deceased, and, for any of the purposes aforesaid, to enter into, give and execute such agreements, instruments of composition, releases and other things, as they may think expedient, without being responsible for any loss occasioned thereby.

(2) None of the powers in this section conferred shall take effect, or be exercisable, by virtue of this Act, by any trustees or executors, if it is expressly declared in the deed, will or other instrument creating such trustees or executors, that such trustees or executors shall not have such power.

(3) This section shall apply and extend to both present and future trustees and executors. R. S. O. 1887, c. 110, s. 31.

In case of deficiency of assets, debts to rank *pari passu*.

34. On the administration of the estate of a deceased person, in case of a deficiency of assets, debts due to the Crown and to the executor or administrator of the deceased person, and debts to others, including therein respectively debts by judgment or order, and other debts of record, debts by specialty, simple contract debts, and such claims for damages as by statute are payable in like order of administration as simple contract debts—shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing herein contained shall prejudice any lien existing during the lifetime of the debtor on any of his real or personal estate. R. S. O. 1887, c. 110, s. 32.

Not to affect liens.

If claim is rejected and notice given an action must be brought within a certain period.

35. In case the executor or administrator gives notice in writing referring to this section and of his intention to avail himself thereof to any creditor or other person of whose claims against the estate he has notice, or to the attorney or agent of such creditor or other person, that he the executor or administrator rejects or disputes the claim, it shall be the duty of the claimant to commence his action in respect of the claim

within six months after the notice is given, in case the debt or some part thereof is due at the time of the notice, or within six months from the time the debt or some part thereof falls due if no part thereof is due at the time of the notice, and in default the claim shall be forever barred; Provided always that in case the claimant shall be nonsuited at the trial the claimant, or his executors or administrators, may commence a new action within a further period of one month from the time of the nonsuit. R. S. O. 1887, c. 110, s. 33.

Proviso.

36 Where an executor or administrator, liable as such to the rents, covenants or agreements contained in any lease or agreement for a lease granted or assigned to the testator or intestate whose estate is being administered, has satisfied all such liabilities under the said lease or agreement for a lease, as have accrued due and been claimed up to the time of the assignment hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised, or agreed to be demised, although the period for laying out the same may not have arrived, and has assigned the lease, or agreement for the lease, to a purchaser thereof, he shall be at liberty to distribute the residuary personal estate of the deceased to and among the parties entitled thereto respectively, without appropriating any part, or any further part (as the case may be), of the personal estate of the deceased, to meet any future liability under the said lease, or agreement for a lease; and the executor or administrator so distributing the residuary estate shall not, after having assigned the said lease or agreement for a lease and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said lease, or agreement for a lease; but nothing herein contained shall prejudice the right of the lessor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed. R. S. O. 1887, c. 110, s. 34.

As to liability of executor or administrator in respect of covenants, etc., in leases.

Imp. Act 22
23 V. c. 35,
s. 27.

37 In like manner where an executor or administrator, liable as such to the rent, covenants or agreements contained in any conveyance on chief rent or rent-charge (whether any such rent be by limitation of use, grant or reservation), or agreement for such conveyance, granted or assigned to or made and entered into with the testator or intestate whose estate is being administered, has satisfied all such liabilities under the said conveyance, or agreement for a conveyance, as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned, and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid

As to liability of executor in respect of rents, etc., in conveyances on rent-charge, etc.
Imp. Act
22-23, V.
c. 35, s. 28.

out on the property conveyed, or agreed to be conveyed, although the period for laying out the same may not have arrived, and has conveyed such property, or assigned the said agreement for such conveyance as aforesaid, to a purchaser thereof, he shall be at liberty to distribute the residuary personal estate of the deceased to and amongst the parties entitled thereto respectively, without appropriating any part, or any further part (as the case may be), of the personal estate of the deceased, to meet any future liability under the said conveyance, or agreement for a conveyance; and the executor or administrator so distributing the residuary estate shall not, after having made or executed such conveyance or assignment, and having, where necessary, set apart such sufficient fund as aforesaid, be personally liable in respect of any subsequent claim under the said conveyance, or agreement for conveyance; but nothing herein contained shall prejudice the right of the grantor, or those claiming under him, to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed. R. S. O. 1887, c. 110, s. 35.

Distribution of assets under trust deeds for benefit of creditors, or of the assets of a testator or intestate after notice given by trustee, assignee, executor or administrator.

§ 38. Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of creditors generally, or a particular class or classes of creditors, where the creditors are not designated by name therein, or an executor or an administrator has given such or the like notices as in the opinion of the Court in which such trustee, assignee, executor, or administrator is sought to be charged, would have been given by the High Court in an action for the execution of the trusts of such deed or assignment, or an administration suit (as the case may be), for creditors and others, to send into such trustee, assignee, executor or administrator, their claims against the person for the benefit of the creditors of whom such deed or assignment is made, or the estate of the testator or intestate, (as the case may be), the trustee, assignee, executor or administrator shall, at the expiration of the time named in the said notices, or the last of the said notices, for sending in such claims, be at liberty to distribute the proceeds of the trust estate, or the assets of the testator or intestate (as the case may be), or any part thereof amongst the parties entitled thereto, having regard to the claims of which the trustee, assignee, executor or administrator has then notice, and shall not be liable for the proceeds of the trust estate, or assets (as the case may be), or any part thereof, so distributed to any person of whose claim the trustee, assignee, executor or administrator had not notice at the time of the distribution thereof or a part thereof (as the case may be); but nothing in this Act contained shall prejudice the right of any creditor or claimant to follow the proceeds of the trust estate or assets (as the case may be), or any part thereof, into the hands of the person or persons who may have received the same respectively. R. S. O. 1887, c. 110, s. 36.

SUMMARY APPLICATION TO COURT FOR ADVICE.

39.—(1) Any trustee, executor or administrator, shall be at liberty, without the institution of an action, to apply in Court or in Chambers in the manner prescribed by Rules of Court, for the opinion, advice or direction of a Judge of the High Court on any question respecting the management or administration of the trust property or the assets of a testator or intestate.

Trustee, etc., may apply for advice in management of trust property.
Imp. Act 22 & 23 V. c. 35, s. 30.

(2) The trustee, executor or administrator, acting upon the opinion, advice or direction given by the Judge, shall be deemed, so far as regards his own responsibility, to have discharged his duty as such trustee, executor or administrator, in the subject matter of the said application: but this provision shall not extend to indemnify a trustee, executor or administrator in respect of any act done in accordance with such opinion, advice or direction as aforesaid, if the trustee, executor or administrator has been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction. R. S. O. 1887, c. 110, s. 37.

[As to costs see *Cap.* 51, sec. 119.*]

ALLOWANCE TO TRUSTEES AND EXECUTORS.

40. Any trustee under a deed, settlement or will, any executor or administrator, any guardian appointed by any Court, and any testamentary guardian, or any other trustee, howsoever the trust is created, shall be entitled to such fair and reasonable allowance for his care, pains and trouble, and his time expended in and about the trust estate, as may be allowed by the High Court or Judge, or by any Master or Referee thereof, to whom the matter may be referred. R. S. O. 1887, c. 110, s. 38.

All trustees.

41. A Judge of the High Court may, on application to him for the purpose, settle the amount of such compensation, although the trust estate is not before the Court in any action. R. S. O. 1887, c. 110, s. 39.

All trustees to be made the legal trustee of the estate before the Court.

42. Compensation may be allowed in the case of any trust heretofore created, as well as in any to be hereafter created. R. S. O. 1887, c. 110, s. 40.

All trusts to existing as well as future trusts.

43. The Judge of any Surrogate Court may allow to the executor or trustee or administrator acting under a will or letters of administration, a fair and reasonable allowance for his care, pains and trouble, and his time expended in or about the execution, trusteeship or administration of the estate and ef-

Surrogate Judge may order an allowance to be made to executor or administrator.

of the estate
for his
trouble.

fects vested in him under the will or letters of administration, and in administering, disposing of and arranging and settling the same, and generally in arranging and settling the affairs of the estate, and may make an order or orders from time to time therefor and the same shall be allowed to an executor, trustee or administrator in passing his accounts. R. S. O. 1887, c. 110, s. 41.

Where
allowance
fixed by the
instrument.

44. Nothing in the next preceding four sections shall apply to any case in which the allowance is fixed by the instrument creating the trust. R. S. O. 1887, c. 110, s. 42.

CHAPTER 130

An Act respecting Investments by Trustees.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Trustee Investment Act.*" Short title.

2.—(1) Trustees or executors having trust money in their hands, which it is in their duty, or which it is in their discretion, to invest at interest, shall be at liberty at their discretion, to invest the same in any stock, debentures or securities of the Government of the Dominion of Canada, or of this Province; or in securities which are a first charge on land held in fee simple, provided that such investments are in other respects reasonable and proper, and such trustees or executors shall also be at liberty, at their discretion, to call in any trust funds invested in any other securities than as aforesaid, and to invest the same in any such stock, debentures or securities aforesaid, and also, from time to time, at their discretion, to vary any such investments as aforesaid, for others of the same nature; and any such moneys already invested in any such stock, debentures or securities as aforesaid, shall be held and taken to have been lawfully and properly invested.

Trustees or executors may invest trust moneys in certain securities.
Imp. Act 23-24 V. c. 145, s. 25.

(2) This section shall apply and extend to both present and future trustees and executors. R. S. O. 1887, c. 110, s. 29 (1 and 3).

This section to apply to all trustees, etc.

3.—(1) For the purposes of the following sections of this Act the expression "trustee" shall be deemed to include an executor or administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee.

Interpretation "Trustee."

(2) The provisions of this Act relating to a trustee shall apply as well to several joint trustees as to a sole trustee.

(3) The expression "stock" shall include fully paid up shares.

(4) The expression "instrument" shall include an Act of the Legislature of Ontario. 54 V. c. 19, s. 2.

4. The powers hereby conferred are in addition to the powers conferred by the instrument, if any, creating the trust; Provided that nothing herein contained shall authorize any

Additional powers given.
trustee.

trustee to do anything which he is in express terms forbidden to do, or to omit to do anything which he is in express terms directed to do, by the instrument creating the trust. R. S. O. 1887, c. 110. s. 29 (2) ; 54 V. c. 19, s. 3.

Investment of
trust funds.

5.—(1) It shall be lawful for a trustee, unless expressly forbidden by the instrument (if any) creating the trust, to invest any trust funds in his hands in terminable debentures or debenture stock of the hereinafter mentioned societies and companies, provided that such investment is in other respects reasonable and proper, and that the debentures are registered, and are transferable only on the books of the society or company in his name as the trustee for the particular trust estate for which they are held in such debentures or debenture stock as aforesaid :—

(a) Of any incorporated society or company which has been, or shall hereafter be authorized by any lawful authority to lend money upon mortgages on real estate, or for that purpose and other purposes, such society or company having a capitalized, fixed, paid up and permanent stock not liable to be withdrawn therefrom amounting to at least \$500,000, and having a reserve fund amounting to not less than 25 per cent. of its paid up capital, and its stock having a market value of not less than 25 per cent. premium, and the society or company having during each of the ten years next preceding the date of investment, paid a dividend of not less than six per centum on its ordinary stock ;

(b) Or of any society or company heretofore incorporated under chapter 164 of the Revised Statutes of Ontario, 1877, or any Act incorporated therewith, or under chapter 169 of the Revised Statutes of Ontario, 1887, having a capitalized, fixed, paid up, and permanent stock not liable to be withdrawn therefrom amounting to at least \$100,000, and having a reserve fund amounting to not less than 15 per cent. of its paid up capital, and its stock having a market value of not less than 7 per cent. premium, and the society or company having during each of the ten years next preceding the date of investment paid a dividend of not less than six per cent. on its ordinary stock ; provided that nothing in this clause (b) shall in any way affect any investment made under statutory authority before the passing of this Act.

(2) The trustees may from time to time vary any such investment. 54 V. c. 19, s. 4 (a-c).

6. No investments shall be made under authority of this Act in the debentures of any society or company of the class first hereinbefore mentioned which has not obtained an order of the Lieutenant-Governor in Council approving of investments in the debentures thereof; and such approval is not to be granted to any society or company which does not appear to have kept strictly within its legal powers in relation to borrowing and investment. 54 V. c. 19, s. 5.

Companies in which funds invested to be approved by Lieutenant Governor.

7. The Lieutenant-Governor in Council if he deems it expedient may at any time revoke any Order in Council previously made approving of investments in the debentures or debenture stock of any society or company. Such revocation shall not affect the propriety of investments made before such revocation. 54 V. c. 19, s. 6.

Revocation of Order in Council approving of investments.

8.—(1) No trustee lending money upon the security of any property shall be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made, provided that it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be an able practical surveyor or valuer, instructed and employed independently of any owner of the property, whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere, and that the amount of the loan does not exceed one half of the value of the property as stated in the report, and that the loan was made under the advice of the surveyor or valuer expressed in the report. This section shall apply to a loan upon any property on which the trustee can lawfully lend.

When trustee not chargeable for lending on insufficient security.

Imp. Act 51-52 V. c. 59, s. 4.

(2) This section shall apply to transfers of existing securities as well as to new securities, and to investments made as well before as on and after the 4th day of May, 1891, unless some action or other proceeding was pending with reference thereto at the said date. 54 V. c. 19, s. 9.

9.—(1) Where a trustee has improperly advanced trust money on a mortgage security which would at the time of the investment have been a proper investment in all respects for a less sum than was actually advanced thereon, the security shall be deemed an authorized investment for such less sum, and the trustees shall only be liable to make good the sum advanced in excess thereof with interest.

Trustee lending more than authorized amount.

Imp. Act 51-52 V. c. 59, s. 5.

(2) This section shall apply to investments made as well before as on and after the 4th day of May, 1891, unless some action or other proceeding was pending with reference thereto at the said date. 54 V. c. 19, s. 10.

CHAPTER 131.

An Act to Protect persons acting as Executors or Administrators.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :

Protection of persons acting as executors and administrators of persons supposed to be deceased.

1. Where any one has been or is hereafter appointed, by a Court having jurisdiction in that behalf, administrator of the estate of any person who on account of absence for seven years or for any other reason has been presumed to be dead, or where probate of a will made by any such person has been or shall be granted by such Court, all acts donè under the authority of such appointment or probate, shall, notwithstanding it may thereafter appear that the presumption of death was erroneous, be as valid and effectual as such acts would have been had such person been dead ; but the person erroneously presumed to be dead shall, subject to the provisions of sections 3 and 4, have the right to recover from the person acting as executor or administrator any part of the estate remaining in his hands undistributed, and no more ; and shall, subject to the provisions of the statutes of limitations, be entitled to recover from any one who received any portion of his estate as one of his next of kin, or as a devisee, legatee or heir, or as the husband or wife of such person, the portion so received, or the value thereof. 53 V. c. 29, s. 1

Protection of personal representatives acting upon supposed intestacy of deceased.

2. Where a will is admitted to probate, or a grant of administration is made with will annexed, or on account of supposed intestacy, by a Court having jurisdiction in that behalf, all acts done under the authority of such will or grant of administration shall, notwithstanding it may afterwards appear that the deceased had left a will, or left a will which superseded that of which probate was granted or which was annexed to the said letters, or notwithstanding that it appears that the will admitted to probate or administration was not duly executed, or was for any reason invalid, be as valid and effectual as such acts would have been if such will had been the last will of the deceased, and had been duly executed and had been valid, or in case of administration as on intestacy as valid as such acts would have been if the deceased had died intestate ; but upon the revocation of the grant of probate or administration, the new personal representative of the deceased shall, subject to the provisions of sections 3 and 4, have the

right to recover from the person acting as executor or administrator as if received any part of the estate remaining in his hands undistributed, and he may and shall set out to the persons of the estates of decedents, be entitled to receive from any one who receives or is entitled any portion of the estate of the deceased as one of his heirs, or as a devisee, legatee, or heir, or as the husband or wife of the deceased the portion so received or the value thereof. 53 V., c. 29, s. 2.

3. The said executor or administrator shall have the right to retain out of any amount remaining in his hands and distributed his proper costs and expenses in the administration of the estate. 53 V., c. 29, s. 3.

4. Notwithstanding anything contained in any will or in any act as administrator or executor where such person has been privy to any fraud by means of which the grant of administration or probate was obtained, he may bring under section 2 in respect of anything done after he becomes aware that the person who was presumed to be dead is alive, or in cases arising under section 2, that the will was not duly executed, or for some other reason was invalid unless the thing so done was in pursuance of a contract for valuable consideration made before the said executor or administrator was aware to the effect aforesaid. 53 V., c. 29, s. 4.

CHAPTER 132.

An Act respecting the Estates of Insolvent Deceased Persons.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Creditor holding security to value the same.

1.—(1) On the administration of the estate of a deceased person, in case of a deficiency of assets, every creditor in proving his claim shall state whether he holds any security for his claim or any part thereof, and shall give full particulars of the same and if such security is on the estate of the deceased debtor, or on the estate of a third party for whom the estate of the deceased debtor is only indirectly or secondarily liable the creditor so proving his claim shall put a specified value on such security, and the executor or administrator, under the authority of the other creditors of the estate of the deceased, or of the court if the estate is being then administered under the direction of or by a court, may either consent to the creditor's ranking for the claim after deducting such valuation, or he may require from the creditor an assignment of the security at an advance of ten per cent. upon the specified value to be paid out of the estate as soon as the executor or administrator has realized such security, in which he shall be bound to the exercise of ordinary diligence; and in either of such cases the difference between the value at which the security is retained and the amount of the gross claim of the creditor shall be the amount for which he shall rank upon the estate of the deceased debtor.

When claim is based on negotiable instruments.

(2) If the claim of the creditor is based upon negotiable instruments upon which the estate of the deceased debtor is only indirectly or secondarily liable, and which are not mature or exigible, the creditor shall be considered to hold security within the meaning of this section, and shall put a value on the liability of the party primarily liable thereon as being his security for the payment thereof, but after the maturity of such liability and its non-payment, he shall be entitled to amend and re-value his claim. 59 V. c. 22, s. 1.

Creditor holding security may assign same and rank as unsecured creditor.

2. A creditor holding any security as aforesaid on the estate of a deceased debtor, or on the estate of a third party for whom the estate of such debtor is only secondarily liable, may release or deliver up such security to the executor or administrator, or he may by statutory declaration delivered to the executor

or administrator set a valve upon such security ; and from the time he shall have so released or delivered up such security or valued the same, the debt to which such security applied shall be considered as an unsecured debt of the estate, or as being secured only to the extent of the value set upon such security ; and the creditor may rank as and exercise all the rights of an ordinary creditor, for the amount of his claim, or to the extent only of any balance thereof above and beyond the value set upon such security as the case may be. 59 V. c. 22, s. 2.

3. In case a person claiming to be entitled to rank on the estate holds security for his claim or any part thereof, of such a nature that he is required by this Act to value the same, and he fails to value such security, the Judge of the Surrogate Court, who granted the probate or letters of administration, may, upon summary application by the executor or administrator, of which application three days' notice shall be given to such claimant, order that unless a specified value shall be placed on such security and notified in writing to the executor or administrator within a time to be limited by the order such claimant shall, in respect of the claim, or the part thereof for which the security is held in case the security is held for part only of the claim, be wholly barred of any right to share in the proceeds of such estate, and if a specified value is not placed on such security and notified in writing to the executor or administrator according to the exigency of the said order, or within such further time as the said Judge may by subsequent order allow, the said claim or the said part, as the case may be, shall be wholly barred as against such estate. 59 V. c. 22, s. 3.

When creditor holding security fails to value same.

4. When the estate is being administered by or under the direction of a court, such court shall exercise the jurisdiction conferred by the preceding section upon the Judge of the Surrogate Court. 59 V. c. 22, s. 4.

Administration under the direction of a court.

[As to priority in respect of wages, see Cap. 156, sec. 6.]

4. CONFIRMATION AND EVIDENCE OF TITLE.

CHAPTER 133.

An Act respecting the Limitation of Actions relating to Real Property, and the time of Prescription in certain cases.

SHORT TITLE, s. 1.	RECEIPT OF RENT TO BE DEEMED RECEIPT OF PROFITS, s. 14.
INTERPRETATION, s. 2.	RIGHT OF PARTY OUT OF POSSESSION EXTINGUISHED AT THE END OF THE PERIOD LIMITED, s. 15.
COMMENCEMENT OF ACT AS TO ABSENTEES, s. 3.	ACTIONS FOR ARREARS OF DOWER, RENT AND INTEREST TO BE WITHIN SIX YEARS, ss. 16-18.
PERIOD OF LIMITATION—TEN YEARS AFTER RIGHT OF ACTION ACCRUED, s. 4.	MORTGAGOR OUT OF POSSESSION BARRED AFTER TEN YEARS, s. 19.
WHEN RIGHTS OF ACTION DEEMED TO HAVE ACCRUED :	ACKNOWLEDGMENTS, ss. 20-21.
On dispossession, s. 5 (1).	MORTGAGEE BARRED AFTER TEN YEARS, s. 22.
On death, s. 5 (2).	ACTIONS FOR MONEY CHARGED ON LAND AND LEGACIES, ss. 23, 24.
On alienation, s. 5 (3).	ACTIONS FOR DOWER, ss. 25, 26.
Wild lands, s. 5 (4).	BAR OF ESTATES TAIL, ss. 27-29.
Rent under lease, s. 5 (5).	LIMITATION OF EQUITABLE CLAIMS, ss. 30-33.
Tenancy from year to year, s. 5 (6).	EASEMENTS :
Tenancy at will, s. 5 (7, 8).	Profits <i>à pendre</i> , s. 34.
Forfeiture or breach of condition, s. 5 (9, 10).	Rights of way, water and other easements, s. 35.
Future estates, s. 5 (10-12).	Light, s. 36.
PERIOD OF LIMITATION AS TO CERTAIN FUTURE ESTATES, s. 6.	Interruptions, s. 37.
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ENTRY NOT TO BE DEEMED POSSESSION, s. 8.	Disabilities in cases of, ss. 40-42.
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DESCENT CAST, WARRANTY, ETC., NOT TO BAR RIGHT OF ENTRY OR ACTION, s. 10.	Easements, ss. 40-42.
POSSESSION OF ONE JOINT TENANT, ETC., NOT TO BE DEEMED POSSESSION OF ANOTHER, s. 11.	In cases of land or rent, ss. 43-45.
POSSESSION OF RELATIONS NOT TO BE DEEMED POSSESSION OF THE HEIRS, s. 12.	Five years allowed from the termination of disability, s. 43.
ACKNOWLEDGMENT TO BE EQUIVALENT TO POSSESSION OR RECEIPT OF RENT, s. 13.	Twenty years the utmost allowance, s. 44.
	No further time for a succession of disabilities, s. 45.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. This Act may be cited as "*The Real Property Limitation Act*." R. S. O. 1887, c. 111, s. 1. Short title.

2. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :— Interpretation.

1. "Land" shall extend to messuages and all other hereditaments, whether corporeal or incorporeal, and to money to be laid out in the purchase of land (and to chattels and other personal property transmissible to heirs), and also to any share of the same hereditaments and properties or any of them, and to any estate of inheritance, or estate for any life or lives, or other estate transmissible to heirs, and to any possibility, right or title of entry or action, and any other interest capable of being inherited, and whether the same estates, possibilities, rights, titles and interests, or any of them, are in possession, reversion, remainder or contingency ; "Land."

2. "Assurance" shall mean any deed or instrument (other than a will) by which any land may be conveyed or transferred ; and "Assurance."

3. "Rent" shall extend to all annuities and periodical sums of money charged upon or payable out of any land. R. S. O. 1887, c. 111, s. 2. "Rent."

3. This Act shall commence and be deemed to have taken effect, and chapter 88 of the Consolidated Statutes of Upper Canada, and section 22 of the Act passed in the thirty-second year of Her Majesty's reign, and chaptered 7, to have been repealed, on and from the first day of July in the year of our Lord 1877, as respects any person who on and for twelve months continuously after the twenty-first day of December, 1874, resided without this Province, and is a person entitled to make an entry or distress or to bring an action to recover any land or rent ; or so resident, is a mortgagor, or person entitled to redeem within the meaning of sections 19, 20 or 21 of this Act ; or so resident is a person entitled to, or claiming under a mortgage within the meaning of section 22 ; or so resident is a person entitled to bring an action, or other proceeding within the meaning of section 23 ; or so resident is a person entitled to an action or other proceeding within the meaning of section 24 ; or so resident is a person claiming an estate, interest or right, to take effect after or in defeasance of an estate tail within the meaning of section 29 ; or so resident is a person entitled to demand dower ; and except as respects the persons, and in the cases, mentioned above in this section, this Act shall be deemed to have commenced and taken effect and the said Acts to have been repealed on and from the first day of July, 1876. R. S. O. 1887, c. 111, s. 3. Commence-
ment of Act.
C. S. U. C. c.
88 ; 32 V. c. 7.
s. 22.

LAND OR RENT.

No land or rent to be recovered but within ten years after the right of action accrued.

Imp. Acts 3-4 Wm. iv. c. 27, s. 2; 37-38 V. c. 57, s. 1.

4. No person shall make an entry or distress, or bring any action to recover any land or rent, but within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to some person through whom he claims; or if such right did not accrue to any person through whom he claims, then within ten years next after the time at which the right to make such entry or distress, or to bring such action, first accrued to the person making or bringing the same. R. S. O. 1887, c. 111, s. 4.

When the right shall be deemed to have first accrued.

5. In the construction of this Act, the right to make an entry or distress, or bring an action to recover any land or rent, shall be deemed to have first accrued at such time as hereinafter is mentioned;

On dispossession. Imp. Act, 3-4 W. iv. c. 27, s. 3.

1. Where the person claiming such land or rent, or some person through whom he claims, has, in respect of the estate or interest claimed, been in possession or in the receipt of the profits of such land, or in receipt of such rent, and has, while entitled thereto, been dispossessed, or has discontinued such possession or receipt, then such right shall be deemed to have first accrued at the time of such dispossession or discontinuance of possession, or at the last time at which any such profits or rent were or was so received.

On death. Imp. Act, 3-4 W. iv. c. 27, s. 3.

2. Where the person claiming such land or rent claims the estate or interest of some deceased person who continued in such possession or receipt, in respect of the same estate or interest, until the time of his death, and was the last person entitled to such estate or interest who was in such possession or receipt, then such right shall be deemed to have first accrued at the time of such death.

On alienation. Imp. Act, 3-4 W. iv. c. 27, s. 3.

3. Where the person claiming such land or rent claims in respect of an estate or interest in possession, granted, appointed or otherwise assured by any instrument other than a will, to him or some person through whom he claims, by a person being in respect of the same estate or interest, in the possession or receipt of the profits of the land, or in receipt of the rent, and no person entitled under such instrument has been in possession or receipt, then such right shall be deemed to have first accrued at the time at which the person claiming, as aforesaid, or the person through whom he claims, became entitled to such possession or receipt by virtue of such instrument.

As to lands not cultivated or improved.

4. In the case of lands granted by the Crown of which the grantee, his heirs or assigns, by themselves, their servants or agents, have not taken actual possession by residing upon or cultivating some portion thereof, and in case some other person not claiming to hold under such grantee has been in possession of such land, such possession having been taken while the land was in a state of nature, then unless it can be shewn that such

grantee or such person claiming under him while entitled to the lands had knowledge of the same being in the actual possession of such other person, the lapse of ten years shall not bar the right of such grantee or any person claiming under him to bring an action for the recovery of such land, but the right to bring an action shall be deemed to have accrued from the time that such knowledge was obtained; but no such action shall be brought or entry made after twenty years from the time such possession was taken as aforesaid. Proviso.

5. Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent by virtue of a lease in writing, by which a rent amounting to the yearly sum of \$4 or upwards is reserved, and the rent reserved by such lease has been received by some person wrongfully claiming to be entitled to such land or rent in reversion immediately expectant on the determination of such lease, and no payment in respect of the rent reserved by such lease has afterwards been made to the person rightfully entitled thereto, the right of the person entitled to such land or rent, subject to such lease, or of the person through whom he claims to make an entry or distress, or to bring an action after the determination of such lease, shall be deemed to have first accrued at the time at which the rent reserved by such lease was first so received by the person wrongfully claiming as aforesaid, and no such right shall be deemed to have first accrued upon the determination of such lease to the person rightfully entitled. When right deemed to accrue where rent amounting to \$4 reserved by lease in writing has been wrongfully received.
Imp. Act, 34 W. iv. c. 27, s. 6.

6. Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent as tenant from year to year or other period, without any lease in writing, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued at the determination of the first of such years or other periods, or at the last time when any rent payable in respect of such tenancy was received, whichever last happened. No person after a tenancy from year to year to have any right but from the end of the first year or last payment of rent.
Imp. Act, 34 W. iv. c. 27, s. 8.

7. Where any person is in possession or in receipt of the profits of any land, or in receipt of any rent, as tenant at will, the right of the person entitled subject thereto, or of the person through whom he claims, to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued either at the determination of such tenancy, or at the expiration of one year next after the commencement of such tenancy, at which time such tenancy shall be deemed to have determined. In the case of a tenant at will, the right shall be deemed to have accrued at the end of one year.
Imp. Act, 34 W. iv. c. 27, s. 7.

8. No mortgagor or *cestui que trust* shall be deemed to be a tenant at will within the meaning of the next preceding subsection to his mortgagee or trustee. Case of mortgagor or cestui que trust.
Imp. Act, 34 W. iv. c. 27, s. 8.

In case of forfeiture or breach of condition. Imp. Act, 3-4 W. iv. c. 27, s. 3.

9. Where the person claiming such land or rent, or the person through whom he claims, has become entitled, by reason of any forfeiture or breach of condition, then such right shall be deemed to have first accrued when such forfeiture was incurred or such condition broken.

Where advantage of forfeiture is not taken by remainderman, he shall have a new right when his estate comes into possession. Imp. Act, 3-4 W. iv. c. 27, s. 4.

10. Where any right to make an entry or distress, or to bring an action to recover any land or rent, by reason of any forfeiture or breach of condition, has first accrued in respect of any estate or interest in reversion or remainder, and the land or rent has not been recovered by virtue of such right, the right to make an entry or distress, or to bring an action to recover such land or rent, shall be deemed to have first accrued in respect of such estate or interest at the time when the same became an estate or interest in possession as if no such forfeiture or breach of condition had happened.

In case of future estates. Imp. Act, 3-4 W. iv. c. 27, s. 3.

11. Where the estate or interest claimed is an estate or interest in reversion or remainder, or other future estate or interest, and no person has obtained the possession or receipt of the profits of such land, or the receipt of such rent, in respect of such estate or interest, then such right shall be deemed to have first accrued at the time at which such estate or interest became an estate or interest in possession.

Further provision for case of future estates. Imp. Act, 3-4 W. iv. c. 27, s. 5. 37-38 V. c. 57 s. 2.

12. A right to make an entry or a distress, or to bring an action to recover any land or rent, shall be deemed to have first accrued, in respect of an estate or interest in reversion or remainder, or other future estate or interest, at the time at which the same became an estate or interest in possession, by the determination of any estate or estates in respect of which such land has been held or the profits thereof or such rent have been received, notwithstanding that the person claiming such land or rent, or some person through whom he claims, has, at any time previously to the creation of the estate or estates which have determined, been in the possession or receipt of the profits of such land, or in receipt of such rent. R. S. O. 1887, c. 111, s. 5.

Time limited as to future estates when person entitled to the particular estate out of possession, etc. Imp. Act, 37-38 V. c. 57, s. 2.

6.—(1) If the person last entitled to any particular estate on which any future estate or interest was expectant has not been in the possession or receipt of the profits of such land, or in receipt of such rent, at the time when his interest determined, no such entry or distress shall be made, and no such action shall be brought, by any person becoming entitled in possession to a future estate or interest, but within ten years next after the time when the right to make an entry or distress, or to bring an action for the recovery of such land or rent, first accrued to the person whose interest has so determined, or within five years next after the time when the estate of the person becoming entitled in possession has become vested in possession, whichever of those two periods is the longer.

(2) If the right of any such person to make such entry or distress, or to bring any such action, has been barred under this Act, no person afterwards claiming to be entitled to the same land or rent in respect of any subsequent estate or interest under any deed, will or settlement executed or taking effect after the time when a right to make an entry or distress, or to bring an action for the recovery of such land or rent, first accrued to the owner of the particular estate whose interest has so determined as aforesaid, shall make any such entry or distress, or bring any such action, to recover such land or rent.

The case of bar of future estate and of a subsequent interest created after right of entry, etc., accrued to owner of particular estate. Imp. Act. 37-38 V. c. 57, s. 2.

(3) Where the right of any person to make an entry or distress, or to bring an action to recover any land or rent to which he has been entitled for an estate or interest in possession, has been barred by the determination of the period, hereinbefore limited, which is applicable in such case, and such person has, at any time during the said period, been entitled to any other estate, interest, right or possibility, in reversion, remainder or otherwise, in or to the same land or rent, no entry, distress or action shall be made or brought by such person, or any person claiming through him, to recover such land or rent in respect of such other estate, interest, right or possibility, unless in the meantime such land or rent has been recovered by some person entitled to an estate, interest or right which has been limited or taken effect after or in defeasance of such estate or interest in possession. R. S. O. 1887, c. 111, s. 6.

When the right to an estate in possession is barred, the right of the same persons to future estates shall also be barred. Imp. Act. 3-4 W. iv. c. 27, s. 20.

7. For the purposes of this Act, an administrator claiming the estate or interest of the deceased person of whose chattels he has been appointed administrator, shall be deemed to claim as if there had been no interval of time between the death of such deceased person and the grant of the letters of administration. R. S. O. 1887, c. 111, s. 7.

An administrator to claim, as if he obtained the estate without interval after death of deceased. Imp. Act. 3-4 W. iv. c. 27, s. 6.

8. No person shall be deemed to have been in possession of any land within the meaning of this Act, merely by reason of having made an entry thereon. R. S. O. 1887, c. 111, s. 8.

A mere entry not to be deemed possession. *Idem* s. 10.

9. No continual or other claim upon or near any land shall preserve any right of making an entry or distress, or of bringing an action. R. S. O. 1887, c. 111, s. 9.

No right to be preserved by continual claim. *Idem* s. 11.

10. No descent cast, discontinuance or warranty, which has happened or been made since the first day of July, 1834, or which may hereafter happen or be made, shall toll or defeat any right of entry or action for the recovery of land. R. S. O. 1887, c. 111, s. 10.

No descent, warranty, etc., to bar a right of entry or action. *Idem* s. 39.

11. Where any one or more of several persons entitled to any land or rent as coparceners, joint tenants or tenants in common have been in possession or receipt of the entirety, or more than

Possession of one coparcener, etc., not to be the pos-

session of the others.
Imp. Act, 3-4
W. iv. c. 27,
s. 12.

his or their undivided share or shares of such land, or of the profits thereof, or of such rent, for his or their own benefit, or for the benefit of any person or persons other than the person or persons entitled to the other share or shares of the same land or rent, such possession or receipt shall not be deemed to have been the possession or receipt of or by such last mentioned person or persons, or any of them. R. S. O. 1887, c. 111, s. 11.

Possession of relations not to be the possession of the heirs.
Idem s. 13.

12. Where a relation of the persons entitled, as heirs, to the possession, or receipt of the profits of any land, or to the receipt of any rent, enters into the possession or receipt thereof, such possession or receipt shall not be deemed to be the possession or receipt of or by the persons entitled as heirs. R. S. O. 1887, c. 111, s. 12.

Acknowledgment in writing given to the person entitled or his agent, to be equivalent to possession or receipt of rent.
Imp. Act, 3-4
W. iv. c. 27,
s. 14.

13. Where any acknowledgment of the title of the person entitled to any land or rent has been given to him or to his agent in writing, signed by the person in possession or in receipt of the profits of such land, or in the receipt of such rent, such possession or receipt of or by the person by whom such acknowledgment was given shall be deemed, according to the meaning of this Act, to have been the possession or receipt of or by the person to whom or to whose agent such acknowledgment was given at the time of giving the same, and the right of such last mentioned person, or of any person claiming through him, to make an entry or distress or bring an action to recover such land or rent, shall be deemed to have first accrued at and not before the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given. R. S. O. 1887, c. 111, s. 13.

Receipt of rent to be deemed receipt of profits
Imp. Act, 3-4
W. iv. c. 27,
s. 35.

14. The receipt of the rent payable by any tenant from year to year, or other lessee, shall, as against such lessee or any person claiming under him, but subject to the lease, be deemed to be the receipt of the profits of the land for the purposes of this Act. R. S. O. 1887, c. 111, s. 14.

At the end of the period of limitation the right of the party out of possession to be extinguished.
Imp. Act, 3-4
W. iv. c. 27,
s. 34.

15. At the determination of the period limited by this Act to any person for making an entry or distress, or bringing any action, the right and title of such person to the land or rent, for the recovery whereof such entry, distress, or action respectively might have been made or brought within such period shall be extinguished. R. S. O. 1887, c. 111, s. 15.

ARREARS OF DOWER, RENT, AND INTEREST.

No arrears of dower to be recovered for more than six years.
Idem s. 41.

16. No arrears of dower, nor any damages on account of such arrears, shall be recovered or obtained by any action for a longer period than six years next before the commencement of such action. R. S. O. 1887, c. 111, s. 16.

17. No arrears of rent, or of interest in respect of any sum of money charged upon or payable out of any land or rent, or in respect of any legacy, or any damages in respect of such arrears of rent or interest, shall be recovered by any distress, or action, but within six years next after the same respectively has become due, or next after any acknowledgment of the same in writing has been given to the person entitled thereto, or his agent, signed by the person by whom the same was payable, or his agent. R. S. O. 1887, c. 111, s. 17.

No arrears of rent or interest to be recovered for more than six years.
Imp. Act, 3-4 W. iv. c. 27, s. 42.

18. Where any prior mortgagee or other incumbrancer has been in possession of any land, or in the receipt of the profits thereof, within one year next before an action is brought by any person entitled to a subsequent mortgage or other incumbrance on the same land, the person entitled to such subsequent mortgage or incumbrance may recover in such action the arrears of interest which have become due during the whole time that such prior mortgagee or incumbrancer was in such possession or receipt as aforesaid, although such time may have exceeded the said term of six years. R. S. O. 1887, c. 111, s. 18.

Exception in favour of subsequent mortgagee when a prior mortgagee has been in possession.
Idem s. 42.

MORTGAGES AND CHARGES ON LAND.

19. Where a mortgagee has obtained the possession or receipt of the profits of any land or the receipt of any rent comprised in his mortgage, the mortgagor, or any person claiming through him, shall not bring any action to redeem the mortgage, but within ten years next after the time at which the mortgagee obtained such possession or receipt, unless in the meantime an acknowledgment in writing of the title of the mortgagor, or of his right to redemption, has been given to the mortgagor or some person claiming his estate, or to the agent of such mortgagor or person, signed by the mortgagee, or the person claiming through him; and in such case no such action shall be brought, but within ten years next after the time at which such acknowledgment, or the last of such acknowledgments, if more than one, was given. R. S. O. 1887, c. 111, s. 19.

Mortgagor to be barred at end of ten years from the time when the mortgagee took possession, or from the last written acknowledgment.
Imp. Acts, 3-4 W. iv. c. 27, s. 28; and 37-38 V. c. 57, s. 7.

20. In case there are more mortgagors than one, or more persons than one claiming through the mortgagor or mortgagors, such acknowledgment, if given to any of such mortgagors or persons, or his or their agent, shall be as effectual as if the same had been given to all such mortgagors or persons. R. S. O. 1887, c. 111, s. 20.

Acknowledgment by one of several mortgagors.
Imp. Act, 3-4 W. iv. c. 27, s. 28.

21. In case there are more mortgagees than one, or more persons than one claiming the estate or interest of the mortgagee or mortgagees, such acknowledgment, signed by one or more of such mortgagees or persons, shall be effectual only as against the party or parties signing as aforesaid, and the person or

Acknowledgment by one of several mortgagees.
Imp. Act, 3-4 W. iv. c. 27, s. 28.

persons claiming any part of the mortgage money or land or rent by, from, or under him, or them, and any person or persons entitled to any estate or estates, interest or interests, to take effect after or in defeasance of his or their estate or estates, interest or interests, and shall not operate to give to the mortgagor or mortgagors a right to redeem the mortgage as against the person or persons entitled to any other undivided or divided part of the money or land or rent; and where such of the mortgagees or persons aforesaid as have given such acknowledgment are entitled to a divided part of the land or rent comprised in the mortgage or some estate or interest therein, and not to any ascertained part of the mortgage money, the mortgagor or mortgagors shall be entitled to redeem the same divided part of the land or rent on payment, with interest, of the part of the mortgage money which bears the same proportion to the whole of the mortgage money as the value of such divided part of the land or rent bears to the value of the whole of the land or rent comprised in the mortgage. R. S. O. 1887, c. 111, s. 21.

Mortgagee may enter or sue within ten years from last payment. Imp. Act, 7 W. iv. & 1 V. c. 28

22. Any person entitled to or claiming under a mortgage of land, may make an entry or bring an action to recover such land, at any time within ten years next after the last payment of any part of the principal money or interest secured by such mortgage, although more than ten years have elapsed since the time at which the right to make such entry or bring such action first accrued. R. S. O. 1887, c. 111, s. 22.

Money charged upon land and legacies to be deemed satisfied at the end of ten years if no interest paid or acknowledgment given in writing in the meantime.

23. No action or other proceeding shall be brought to recover out of any land or rent any sum of money secured by any mortgage or lien, or otherwise charged upon or payable out of such land or rent, or to recover any legacy, but within ten years next after a present right to receive the same accrued to some person capable of giving a discharge for, or release of the same, unless in the meantime some part of the principal money, or some interest thereon, has been paid, or some acknowledgment of the right thereto has been given in writing signed by the person by whom the same is payable, or his agent, to the person entitled thereto or his agent; and in such case no action or proceeding shall be brought, but within ten years after such payment or acknowledgment, or the last of such payments or acknowledgments, if more than one was made or given. R. S. O. 1887, c. 111, s. 23.

Imp. Acts 3-4 W. iv. c. 27, s. 40; and 37-38 V. c. 57, s. 8.

Time for recovering charges and arrears of interest not to be enlarged by express trusts for raising the same.

24. No action, or other proceeding shall be brought to recover any sum of money or legacy charged upon or payable, out of any land or rent, and secured by an express trust, or to recover any arrears of rent or of interest in respect of any sum of money or legacy so charged or payable and so secured, or any damages in respect of such arrears,

Imp. Act 37-38 V. c. 57, s. 10.

except within the time within which the same would be recoverable if there were not any such trust. R. S. O. 1887, c. 111, s. 24.

DOWER.

25. No action of dower shall be brought but within ten years from the death of the husband of the dowress, notwithstanding any disability of the dowress or of any person claiming under her. R. S. O. 1887, c. 111, s. 25.

Action of dower to be brought within ten years.

26. Where a dowress has, after the death of her husband, actual possession of the land of which she is dowable, either alone or with heirs or devisees of her husband, the period of ten years within which her action of dower is to be brought shall be computed from the time when such possession of the dowress ceased. This section shall not apply to any case in which the right of action ceased before the 5th day of March, 1880. R. S. O. 1887, c. 111, s. 26.

Time from which right to bring action of dower to be computed.

BAR OF ESTATES TAIL.

27. Where the right of a tenant in tail of any land or rent to make an entry or distress or to bring an action to recover the same, has been barred by reason of the same not having been made or brought within the period limited by this Act, no such entry, distress or action shall be made or brought by any person claiming any estate, interest or right which such tenant in tail might lawfully have barred. R. S. O. 1887, c. 111, s. 27.

Where period of limitation elapsed against a tenant in tail to be deemed to have elapsed against those whose rights he could have barred.

Imp. Act, 3-4 W. iv. c. 27, s. 21.

28. Where a tenant in tail of any land or rent entitled to recover the same has died before the expiration of the period limited by this Act, no person claiming any estate, interest or right which such tenant in tail might lawfully have barred, shall make an entry or distress or bring an action to recover such land or rent, but within the period during which, if such tenant in tail had so long continued to live, he might have made such entry or distress or brought such action. R. S. O. 1887, c. 111, s. 28.

Term elapsed in such cases during the life of the tenant to be computed against those whose rights he could have barred.

Imp. Act, 3-4 W. iv. c. 27, s. 22.

29. Where a tenant in tail of any land or rent has made an assurance thereof, which does not operate to bar the estate or estates to take effect after or in defeasance of his estate tail, and any person is by virtue of such assurance, at the time of the execution thereof, or at any time afterwards, in possession or receipt of the profits of such land, or in the receipt of such rent, and the same person or any other person whosoever (other than some person entitled to such possession or receipt in respect of an estate which has taken effect after or in defeasance of the estate tail) continues or is in such possession or receipt for the period of ten years next after the commence-

In case of possession under an assurance by a tenant in tail, which does not bar the remainder, they shall be deemed at the end of ten years after the period at which the assurance, if then executed,

would have
barred them.
Imp. Acts, 3-4
W. iv. c. 27,
s. 23; and
37-38 V. c. 57,
s. 6.

ment of the time at which such assurance, if it had then been executed by such tenant in tail, or the person who would have been entitled to his estate tail if such assurance had not been executed, would, without the consent of any other person, have operated to bar such estate or estates as aforesaid, then, at the expiration of such period of ten years, such assurance shall be and be deemed to have been effectual as against any person claiming any estate, interest, or right to take effect after or in defeasance of such estate tail. R. S. O. 1887, c. 111, s. 29.

EQUITABLE CLAIMS.

In case of ex-
press trust, the
right shall not
be deemed to
have accrued
until a convey-
ance to a
purchaser.
Imp. Act, 3-4
W. iv. c. 27,
s. 25.

30.—(1) Where any land or rent is vested in a trustee upon any express trust, the right of the *cestui que trust*, or any person claiming through him to bring an action against the trustee or any person claiming through him, to recover such land or rent, shall be deemed to have first accrued, according to the meaning of this Act, at and not before the time at which such land or rent has been conveyed to a purchaser for a valuable consideration, and shall then be deemed to have accrued only as against such purchaser and any person claiming through him.

Claim of *cestui
que trust*
against
trustee.
Rev. Stat.
c. 129.

(2) Subject to the provisions of Section 32 of *The Trustee Act*, no claim of a *cestui que trust* against his trustee for any property held on an express trust, or in respect of any breach of such trust, shall be held to be barred by any Statute of Limitations. R. S. O. 1887, c. 111, s. 30.

In cases of
fraud no time
shall run
whilst the
fraud remains
concealed.
Imp. Act, 3-4
W. iv. c. 27,
s. 26.

31. In every case of a concealed fraud, the right of any person to bring an action for the recovery of any land or rent of which he or any person through whom he claims may have been deprived by such fraud shall be deemed to have first accrued at and not before the time at which such fraud was or with reasonable diligence might have been first known or discovered. R. S. O. 1887, c. 111, s. 31.

Unless in the
case of *bona
fide* purchaser
for value with-
out notice.
Imp. Act, 3-4
W. iv. c. 27,
s. 26.

32. Nothing in the last preceding section contained shall enable any owner of lands or rents to bring an action for the recovery of such lands or rents, or for setting aside any conveyance of such lands or rents, on account of fraud against any *bona fide* purchaser for valuable consideration, who has not assisted in the commission of such fraud, and who, at the time that he made the purchase did not know, and had no reason to believe that any such fraud had been committed. R. S. O. 1887, c. 111, s. 32.

Right to
refuse relief on
the ground of
acquiescence
or otherwise.
Imp. Act, 3-4
W. iv. c. 27,
s. 27.

33. Nothing in this Act contained shall be deemed to interfere with any rule of Equity in refusing relief on the ground of acquiescence, or otherwise, to any person whose right to bring an action is not barred by virtue of this Act. R. S. O. 1887, c. 111, s. 33.

PRESCRIPTION IN CASES OF EASEMENTS.

34. No claim which may be lawfully made at the Common Law, by custom, prescription or grant, to any profit or benefit to be taken or enjoyed from or upon any land of our Sovereign Lady the Queen, Her Heirs or Successors, or of any ecclesiastical or lay person or body corporate, except such matters or things as are hereinafter specially provided for, and except rent, and services, shall, where such profit or benefit has been actually taken and enjoyed by any person claiming right thereto, without interruption for the full period of thirty years, be defeated or destroyed by shewing only that such profit or benefit was first taken or enjoyed at any time prior to such period of thirty years, but nevertheless such claim may be defeated in any other way by which the same is now liable to be defeated; and when such profit or benefit has been so taken and enjoyed as aforesaid for the full period of sixty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was taken and enjoyed by some consent or agreement expressly made or given for that purpose by deed or writing. R. S. O. 1887, c. 111, s. 34.

Certain claims not to be defeated by shewing only that the same enjoyed for less than 30 years.
Imp. Act. 23 W. iv. c. 71, s. 1.

Indefeasible if enjoyed over 60 years.

35. No claim which may lawfully be made at the Common Law by custom, prescription or grant, to any way or other easement, or to any water-course, or the use of any water to be enjoyed, or derived upon, over, or from any land or water of our said Lady the Queen, Her Heirs or Successors, or being the property of any ecclesiastical or lay person or body corporate, when such way or other matter as herein last before mentioned has been actually enjoyed by any person claiming right thereto without interruption for the full period of twenty years shall be defeated or destroyed by shewing only that such way or other matter was first enjoyed at any time prior to the period of twenty years, but, nevertheless, such claim may be defeated in any other way by which the same is now liable to be defeated, and where such way or other matter as herein last before mentioned has been so enjoyed as aforesaid for the full period of forty years, the right thereto shall be deemed absolute and indefeasible, unless it appears that the same was enjoyed by some consent or agreement expressly given or made for that purpose by deed or writing. R. S. O. 1887, c. 111, s. 35.

Right of way, or water not to be defeated by shewing only that it began more than 20 years prior.
Imp. Act 23 W. iv. c. 71, s. 2.

Indefeasible if enjoyed over 40 years.

36. No person shall acquire a right by prescription to the access and use of light to or for any dwelling-house, workshop or other building; but this section shall not apply to any such right which has been acquired by twenty years' use before the fifth day of March, 1880. R. S. O. 1887, c. 111, s. 36.

Right to access and use of light by prescription abolished.

37. Each of the respective periods of years in the last preceding three sections mentioned shall be deemed and taken to be the period next before some action wherein the claim or matter to which such period relates was or is brought into

How the periods shall be calculated, and what acts only

shall be an interruption to the prescription.

Imp. Act. 2-3
W. iv, c. 71.
s. 4.

question; and no act or other matter shall be deemed an interruption within the meaning of the said three sections, unless the same has been submitted to or acquiesced in for one year after the party interrupted has had notice thereof, and of the person making or authorizing the same to be made. R. S. O. 1887, c. 111, s. 37.

What allegation by the party claiming shall be sufficient.

Imp. Act 2-3
W. iv, c. 71,
s. 5.

38.—(1) In all pleadings wherein the party claiming may now allege his right generally, without averring the existence of such right from time immemorial, such general allegation shall still be deemed sufficient; and if the same is denied, all and every the matters in the next preceding four sections of this Act mentioned and provided which are applicable to the case, shall be admissible in evidence to sustain or rebut such allegation.

(2) In all pleadings wherein it would formerly have been necessary to allege the right to have existed from time immemorial, it shall be sufficient to allege the enjoyment thereof as of right by the occupiers of the tenement in respect whereof the same is claimed, for and during such of the periods mentioned in this Act as are applicable to the case, and without claiming in the name or right of the owner of the fee as was usually done.

What proof admitted for or against such allegation.

(3) If the other party intends to rely on any proviso, exception, incapacity, disability, contract, agreement or other matter hereinbefore mentioned, or on any cause or matter of fact or of law not inconsistent with the simple fact of enjoyment, the same shall be specially alleged, and set forth in answer to the allegation of the party claiming, and shall not be received in evidence on any general denial of such allegation. R. S. O. 1887, c. 111, s. 38.

No presumption admissible on proof of enjoyment for a less period than prescribed by this Act.

Imp. Act 2-3
W. iv, c. 71,
s. 6.

39. In the several cases mentioned in and provided for by this Act, of claims to lights, ways, water-courses or other easements, no presumption shall be allowed or made in favour or support of any claim upon proof of the exercise or enjoyment of the right or matter claimed for any less period of time or number of years than for such period or number mentioned in this Act as is applicable to the case and to the nature of the claim. R. S. O. 1887, c. 111 s. 39.

DISABILITIES AND EXCEPTIONS.

1.—*In Cases of Easements.*

Time during which a party could not act not to be computed against him.

Imp. Act 2-3
W. iv, c. 71,
s. 7.

40. The time during which any person otherwise capable of resisting any claim to any of the matters mentioned in sections 34 to 39 inclusive of this Act, is an infant, idiot, *non compos mentis*, or tenant for life, or during which any action has been pending and has been diligently prosecuted until

abated by the death of any party or parties thereto, shall be excluded in the computation of the period in said sections mentioned, except only in cases where the right or claim is thereby declared to be absolute and indefeasible. R. S. O. 1887, c. 111, s. 40.

41. Where any land or water upon, over or from which any such way or other easement, water-course or run of water has been enjoyed or derived, or has been held under or by virtue of any term of life or any term of years exceeding three years from the granting thereof, the time of the enjoyment of any such way or other matter as herein last before mentioned during the continuance of such term shall be excluded in the computation of the said period of forty years, in case the claim is, within three years next after the end, or sooner determination of such term, resisted by any person entitled to any reversion expectant on the determination thereof. R. S. O. 1887, c. 111, s. 41.

Terms of years, etc., excluded from computation in certain cases. Imp. Act 2-3 W. iv, c. 71, s. 8.

42. Nothing in sections 34 to 39 inclusive of this Act shall support or maintain any claim to any profit or benefit to be taken or enjoyed from or upon any land of our Sovereign Lady the Queen, Her Heirs and Successors, or to any way or other easement, or to any water-course or the use of any water to be enjoyed or derived upon, over or from any land or water of our said Lady the Queen, Her Heirs and Successors, unless such land, way, easement or water-course or other matter lies and is situate within the limits of some town or township, or other parcel or tract of land duly surveyed and laid out by proper authority. R. S. O. 1887, c. 111, s. 42.

Exception as to lands of the Crown not duly surveyed and laid out.

2.—*In cases of Land or Rent.*

43. If at the time at which the right of any person to make an entry or distress, or to bring an action to recover any land or rent, first accrues as in sections 4, 5, and 6 mentioned, such person is under any of the disabilities hereinafter mentioned (that is to say) infancy, idiotcy, lunacy or unsoundness of mind, then such person, or the person claiming through him, notwithstanding that the period of ten years or five years (as the case may be) hereinbefore limited has expired, may make an entry or a distress, or bring an action, to recover such land or rent at any time within five years next after the time at which the person to whom such right first accrued ceased to be under any such disability, or died, whichever of those two events first happened. R. S. O. 1877, c. 111, s. 43.

In cases of infancy, or lunacy at the time when the right of action accrues, then five years to be allowed from the termination of the disability, or previous death. Imp. Acts, 3-4, W. iv, c. 27, s. 16; 37-38 V. c. 57, s. 3.

44. No entry, distress or action, shall be made or brought by any person, who, at the time at which his right to make any entry or distress, or to bring an action to recover any land or rent, first accrued was under any of the disabilities

Twenty years utmost allowance for disabilities. Imp. Acts, 3-4

W. iv, c. 27, s. 17, 37-38 V. c. 57, s. 5. hereinbefore mentioned, or by any person claiming through him, but within twenty years next after the time at which such right first accrued, although the person under disability at such time may have remained under one or more of such disabilities during the whole of such twenty years, or although the term of five years from the time at which he ceased to be under any such disability, or died, may not have expired. R. S. O. 1887, c. 111, s. 44.

No further time to be allowed for a succession of disabilities. Imp. Act, 3-4 W. iv, c. 27, s. 18; 37-38 V. c. 57, s. 9.

45. Where any person is under any of the disabilities hereinbefore mentioned, at the time at which his right to make an entry or distress, or to bring an action to recover any land or rent first accrues, and departs this life without having ceased to be under any such disability, no time to make an entry or distress, or to bring an action to recover such land or rent beyond the said period of ten years next after the right of such person to make an entry or distress, or to bring an action to recover such land or rent, first accrued or the said period of five years next after the time at which such person died, shall be allowed by reason of any disability of any other person. R.S.O. 1887, c. 111, s. 45.

CHAPTER 134.

An Act to amend the Law of Vendor and Purchaser
and to Simplify Titles.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows :—

1. This Act may be cited as *The Vendors and Purchasers Act*. Short title.

2. In the completion of any contract of sale of land made after the 10th day of February, 1876, the rights and obligations of vendors and purchasers shall (subject to any stipulation in such contract to the contrary), be regulated by the following rules, namely :—

1. Recitals, statements and description of facts, matters and parties contained in deeds, instruments, Acts of Parliament or statutory declarations twenty years old at the date of the contract, shall, unless and except so far as they are proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters and descriptions. Recital, etc.,
20 years old,
of facts, etc.,
prima facie
evidence.

2. Registered memorials of discharged mortgages shall be sufficient evidence of the mortgages without the production of the mortgages themselves, unless and except so far as such memorials are proved to be inaccurate ; and the vendor shall not be bound to produce the mortgages unless they appear to be in his possession or power. Memorials
of discharged
mortgages.

3. In case of registered memorials twenty years old, of other instruments, if the memorials purport to be executed by the grantor, or in other cases, if possession has been consistent with the registered title, the memorials shall be sufficient evidence without the production of the instruments to which the memorials relate, except so far as such memorials are proved to be inaccurate ; and the vendor shall not be bound to produce the original instruments unless they appear to be in his possession or power ; and the memorials shall be presumed to contain all the material contents of the instruments to which they relate. Memorials
20 years old,
when, and of
what, evi-
dence.

4. The inability of the vendor to furnish the purchaser with a legal covenant to produce and furnish copies of documents of title, shall not be an objection to the title in case the pur- Inability to
furnish cove-
nant to pro-
duce and fur-

nish documents of title.

chaser will, on the completion of the contract, have an equitable right to the production of such documents. R. S. O. 1887, c. 112, s. 1.

Evidence in actions.

3. In actions it shall not be necessary to produce any evidence which, by section 2 of this Act, is dispensed with as between vendor and purchaser; and the evidence therein declared to be sufficient as between vendor and purchaser shall be *prima facie* sufficient for the purposes of such actions. R. S. O. 1887, c. 61, s. 49; c. 112, s. 2.

Summary applications to High Court in respect to requisitions, objections or compensation, etc.

4. A vendor or purchaser of real or leasehold estate or their representatives respectively may at any time or times and from time to time apply in a summary way to the High Court, or a Judge thereof, in respect of any requisitions or objections, or any claim for compensation, or any other question arising out of or connected with the contract except a question affecting the existence or validity of the contract; and the Court or Judge shall make such order upon the application as appears just, by reference to the Master or otherwise, and shall order how and by whom all or any of the costs of and incidental to the application shall be borne and paid. R. S. O. 1887, c. 112, s. 3.

Costs.

CHAPTER 135.

An Act for Quieting Titles to Real Estate.

SHORT TITLE, s. 1.

APPLICATIONS TO QUIET TITLES :

By whom may be made, ss. 2-4.

Form of, s. 5.

Registration of notice of application, s. 6.

Evidence in support of, ss. 7-13.

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Adverse claims, ss. 18-19.

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Withdrawal of applications, s. 22.

Reference of petitions to Masters, etc., s. 23.

Assistance of counsel, s. 24.

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CERTIFICATE OF TITLE :

Judge may give one or more certificates, s. 26.

Form of, s. 27.

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QUIETING TITLES IN SALES BY COURT s. 31.

QUIETING TITLES IN ACTIONS FOR SPECIFIC PERFORMANCE WHERE VENDOR IS TO HAVE AN INDEFEASIBLE TITLE, s. 32.

JUDICIAL INVESTIGATION OF PARTICULAR FACTS AFFECTING TITLES ss. 33-37.

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Separate Court-book, s. 39.

Persons under disability, s. 40.

Re-investigation, ss. 41, 42.

No objection that petitioner has not obtained possession, s. 43.

Proceedings not abated by death, etc., s. 44.

Nor to be void for want of form, s. 45.

Remedial construction of Act, s. 46.

Certificates obtained by fraud, s. 47.

Conviction for fraud not to affect other remedies, s. 48.

POWERS OF JUDGE OR REFEREE, s. 49.

RULES UNDER LAND TITLES ACT TO APPLY TO THIS ACT, s. 49.

GENERAL RULES, s. 50.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Quieting Titles Act*," Short title. R. S. O. 1887, c. 113, s. 1.

2. Any owner of an estate in fee simple in land or any trustee for the sale of the fee simple, shall be entitled to have his title judicially investigated and the validity thereof ascertained and declared; and he shall be so entitled whether he has the legal estate or not, and whether his title is subject or not to any charges or incumbrances. R. S. O. 1887, c. 113, s. 2.

3. Any other person who has any estate or interest, in or out of land in Ontario, may also apply for the investigation of his title and a declaration of the validity thereof; but it shall be in the discretion of the Judge by or

Owners, etc., in fee simple may obtain judicial investigation of title.

In case of any other estate; invest, get on to be discretionary with the Judge.

before whom the proceedings are taken, to grant or refuse the application for the investigation; and such discretion may be invoked and exercised at any stage of the proceedings, and the decision of the Judge in exercising such discretion shall be subject to appeal like any other decision. R. S. O. 1887, c. 113, s. 3.

Attorney-General may apply to quiet title to Crown Lands.

Procedure.

4. Her Majesty's Attorney-General for Ontario may apply, under this Act, for an investigation of the title of the Crown to any lands in Ontario, and a declaration of the validity thereof, and in such case the application may be made by information instead of petition, but in other respects the practice and procedure upon such an application shall be the same as in ordinary cases. R. S. O. 1887, c. 113, s. 4.

Form of application and to whom.

5. The application shall be made to the High Court or a Judge thereof, and subject to the provisions of section 4, shall be by a short petition according to Form 1 given in the schedule to this Act. R. S. O. 1887, c. 113, s. 5.

Registry of application.

6.—(1) A certificate by the clerk of records and writs, or other officer authorized by the Court to sign the same, of the petition being filed, shall be registered in the registry office of the registry division in which the land lies, and this certificate may be according to Form 2 given in the schedule to this Act.

(2) It shall not be necessary to register a preliminary certificate under this section immediately on the petition being filed, but such certificate shall be filed prior to a certificate of title being granted; and the certificate of the registrar of the county, as to instruments registered affecting the land, shall be subsequently continued so as to include such preliminary certificate. This subsection shall not apply to the City of Toronto or the County of York. R. S. O. 1887, c. 113, s. 6.

How the application must be supported.

7. The application shall be supported by the following particulars:

Title deeds.

1. The title deeds (if any) and evidences of title relating to the land that are in the possession or power of the applicant;

Registered instruments.

2. A certified copy of all registered instruments, or registered memorials of instruments, affecting the land, or of all since the last judicial certificate, if any, under this Act, was given (as the case may be), up to the time of the registering of a certificate of the petition as provided for by section 6;

Registrar's certificate.

3. The certificate of the registrar of the county or other registry division in which the land lies, as to actions and proceedings relating to the land, and of which a certificate has been registered in his office;

Statement of facts.

4. A concise statement of such facts as are necessary to make out the title, and which do not appear in the produced

documents ; but no abstract of produced documents shall be required except on special grounds ;

5. Proofs of any facts which are required to be proved in order to make out the title, and which are not established by the other produced documents, unless the Judge dispenses with such proofs until a future stage of the investigation ;

Proof of facts.

6. An affidavit or deposition by the person whose title is to be investigated and a certificate of one of his counsel or solicitors, to the effect hereinafter respectively mentioned, unless the Judge sees fit, for some special reason, to dispense with the same respectively ;

Affidavit and certificate of counsel, etc.

7. A schedule of the particulars produced under this section.

R. S. O. 1887, c. 113, s. 7.

Schedule of particulars produced.

8.—(1) The affidavit or deposition of the person whose title is to be investigated shall state to the effect, that to the best of his knowledge and belief he is the owner of the estate or interest (whatever it is) which is claimed by the petition, subject only to the charges and incumbrances set forth in the petition or in the schedule thereto, or that there is no charge or incumbrance affecting the land ; that the deeds and evidences of title which he produces, and of which a list is contained in the schedule produced under the next preceding section, are all the title deeds and evidences of title relating to the land that are in his possession or power, and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein, or if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any, except what he sets forth ; and the affidavit or deposition shall also set forth whether any one is in possession of the land and under what claim, right or title ; and shall state that to the best of the deponent's knowledge, information and belief, the said affidavit or deposition, and the other papers produced therewith, fully and fairly disclose all facts material to the title claimed by the petitioner, and all contracts and dealings which affect the same or any part thereof, or give any right as against the applicant.

What the affidavit or deposition of the applicant must state.

As to adverse claim or possession, etc.,

(2) The said affidavit or deposition may, in a proper case, be dispensed with, or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition as to part may be made by one person, and as to part by another, at the discretion of the Judge to whom the application is made ; and in such case the affidavit shall be modified accordingly. R. S. O. 1887, c. 113, s. 8.

In certain cases it may be dispensed with or made by another person.

9. The certificate of the counsel or solicitor shall state to the effect that he has investigated the title, and believes the party to be the owner of the estate which the petition claims in the land in question, subject only (if such is the case) to any

What the certificate of counsel or solicitor must state.

charges or incumbrances that may be set forth in the schedule to the petition (or that he so believes, subject to any condition, qualification or exemption to be set forth in the certificate); and that he has conferred with the deponent on the subject of the various matters set forth in the affidavit or deposition referred to in the next preceding two sections, and believes the affidavit or deposition to be true. R. S. O. 1887, c. 113, s. 9.

On what evidence Judge may proceed.

10.—(1) The Judge in investigating the title may receive and act upon any evidence that is now received by the High Court on a question of title, and any evidence which the practice of English conveyancers authorizes to be received on an investigation of a title out of Court; or any other evidence, whether the same is or is not receivable or sufficient in point of strict law, or according to the practice of the English conveyancers, provided the same satisfies the Judge of the truth of the facts intended to be made out thereby.

Evidence in proceedings to quiet titles.
Rev. Stat.
c. 134.

(2) It shall not be necessary to produce any evidence which, by section 2 of *The Vendors and Purchasers Act* is dispensed with as between vendor and purchaser, nor to produce or account for the originals of any registered deeds, documents or instruments, unless where the Judge before whom the investigation is had, otherwise directs. R. S. O. 1887, c. 113, s. 10.

Form of proofs.

11. The proofs required may be by, or in the form of affidavits or certificates; or may be given *viva voce*; or may be in any other manner or form that under the circumstances of the case is satisfactory to the Judge in regard to the matters to which the same relate. R. S. O. 1887, c. 113, s. 11.

Taxes must have been paid except for current year.

12. Before a certificate of title is granted, satisfactory evidence shall be given by certificate, affidavit or otherwise, that all taxes, rates and assessments, for which the land is liable, have been paid, or that all, except those for the current year, have been paid. R. S. O. 1887, c. 113, s. 12.

Further proof if Judge not satisfied.

13. If the Judge is not satisfied with the evidence of title produced in the first instance, he shall give a reasonable opportunity of producing further evidence, or of removing defects in the evidence produced. R. S. O. 1887, c. 113, s. 13.

Judge to order notice to be published.

14.—(1) Except as hereinafter provided before giving a certificate or conveyance under this Act the Judge shall direct to be published in the *Ontario Gazette*, and if he sees fit in any other newspaper or newspapers, and in such form, and for such period or periods as the Judge thinks expedient, a notice either of the application being made, or of the order or decision of the Judge thereon; and the certificate or conveyance shall not be signed or executed until after the expiration of at least four weeks from the first publication of such notice, or such other period as the Judge may appoint.

(2) Where the value or the land in question is proved by the oath of some competent person or persons to be no more than \$3,000, the Judge may dispense with the publication of the advertisements aforesaid, or any of them, and in lieu thereof may direct a printed or type-written notice of the application, or order or decision of the judge thereon, to be posted in a conspicuous place or conspicuous places on the premises in question, and in such other place or places (if any), and for such period or periods as he may think fit; and in such cases the certificate or conveyance shall not be signed or executed until such period or periods shall have expired. R. S. O. 1887, c. 113, s. 14; 59 V., c. 28, s. 2.

Notice of application where land is valued at not more than \$3,000.

15. Where the Judge is satisfied respecting the title, and considers that the certificate of title can safely be granted without any other notice of application than the published notice so required, he shall grant the certificate accordingly. R. S. O. 1887, c. 113, s. 15.

Judge may grant certificate without further notice

16. In case there appears to exist any claim adverse to or inconsistent with that of the petitioner to or in respect of any part of the land, the Judge shall direct such notice as he deems necessary to be mailed to or served on the adverse claimant, his agent or solicitor. R. S. O. 1887, c. 113, s. 16.

Notice to adverse claimant.

17. In all cases the Judge may require from time to time any further publication to take place, or any other notice to be mailed or served that he deems necessary before granting the certificate. R. S. O. 1887, c. 113, s. 17.

Further publication or service of notice.

18.—(1) Any person having an adverse claim, or a claim not recognized in the applicant's petition, may at any time before the certificate of title is granted, file and serve on the applicant, his solicitor or agent, a short statement of his claim, which may be according to Form 3 given in the schedule to this Act.

Adverse claimants to file state claims.

(2) The said claim shall be verified by an affidavit to be filed therewith. R. S. O. 1887, c. 113, s. 18.

Verification.

19. In case of a contest, the Judge may either decide the question of title on the evidence before him, or may refer the same or any matter involved therein to a Divisional Court, or to any mode of investigation which is usual in other cases, or which he deems expedient, and may defer granting the certificate until afterwards, according as the circumstances of each case render just or expedient. R. S. O. 1887, c. 113, s. 19.

In case of contest, Judge may decide or refer the case.

20. The Judge may, at any stage of the cause, order security for costs to be given by the applicant for a certificate, or by any person making any adverse claim. R. S. O. 1887, c. 113, s. 20.

Security for costs.

Payment of costs.

21. The Judge may order costs either as between party and party, or as between solicitor and client, to be paid by or to any person party to any proceeding under this Act, and may give directions as to the fund out of which any costs shall be paid. R. S. O. 1887, c. 113, s. 21.

Withdrawal of application.

22. The petitioner may by leave of the Judge withdraw his application at any time before final adjudication, on payment of all costs incurred in the investigation, either by himself or by any adverse claimant. R. S. O. 1887, c. 113, s. 22.

Petition may be referred to Master or counsel.

23. With a view of expediting investigations, and subject to any General Rules in this behalf, the Judge, if he sees fit, may refer any petition presented under this Act to the Master or other officer of the said Court, or to any counsel named by the Judge, and in such case the referee shall proceed as the Judge himself should do under this Act, had the reference not been made, and shall have the same powers. R. S. O. 1887, c. 113, s. 23.

Judge may require report of counsel.

24. The Judge may also refer any title to counsel named by the Judge, for a preliminary report or examination, and may call for the assistance of counsel in any other way and for any other purpose that may tend to the despatch of business under this Act. R. S. O. 1887, c. 113, s. 24.

Claims of title to be presumed to be made with certain exceptions.

25.—(1) Every claim of title under this Act shall be presumed to be subject to the following exceptions and qualifications, unless the petition for investigation expressly alleges the contrary :

- (a) The reservations (if any) contained in the original grant from the Crown ;
- (b) Any municipal charges, rates or assessments theretofore imposed for local improvements, and not yet due and payable ;
- (c) Any title or lien which, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the land mentioned in the certificate ;
- (d) Any lease or agreement for a lease, for a period yet to run, of not exceeding three years, where there is actual occupation under the same.
- (e) Any public highway, any right of way, watercourse and right of water, and other easements.
- (f) Any right of the wife or husband of the applicant to dower or curtesy (as the case may be) in case of surviving such applicant.

(2) If, however, the applicant desires the certificate to declare the title to be free from the said particulars, or any of them, his petition shall so state, and the investigation shall proceed accordingly. ^{But claim may be without exceptions.} R. S. O. 1887, c. 113, s. 26.

26. The Judge may give one certificate of title, comprising all the land mentioned in the petition, or may give separate certificates as to the title of separate parts of the land. R. S. O. 1887, c. 113, s. 25.

27. The certificate of title shall be according to Form 4 given in the Schedule to this Act, and shall be under the seal of the Court, and shall be signed by one of the Judges and by one of the Registrars of the High Court, and the same and the schedule (if any) thereto, or a duplicate or counterpart of the same shall be registered in full, both in the High Court, and in the registry office of the registry division where the land lies, without any further proof thereof.

R. S. O. 1887, c. 113, s. 27.

Form of certificate of title.

28. A memorandum or certificate of the registration may be endorsed on the certificate of title, or on any counterpart or certified copy thereof, thus :

“Registered in _____ 18 _____, Book _____
Page _____, _____

A. H.,

Clerk of Records and Writs (or as the case may be).

 $O_7,$

“Registered in the Registry Office for the County (or as the case may be), of Book , Page , (Date)

A. C., Registrar."

and a memorandum or certificate so signed shall be evidence of the registration mentioned therein. R. S. O. 1887, c. 113, s. 28.

29. The certificate of title when so sealed, signed and registered, shall be conclusive and the title therein mentioned shall be deemed absolute and indefeasible, from the day of the date of the certificate, as regards Her Majesty and all persons whatever, subject only to any charges or incumbrances, exceptions or qualifications mentioned therein, or in the schedule thereto, and shall be conclusive evidence that every application, notice, publication, proceeding, consent and act whatsoever, which ought to have been made, given and done previously to the granting of the certificate, has been made, given and done by the proper parties. R. S. O. 1887, c. 113, s. 29. Effect of certificate of title.

30. After a certificate of title is duly registered, a copy of the certificate, purporting to be signed and certified as such copy by one of the Registrars of the High Court, or by the registrar of the registry division in which the land lies

shall be admissible evidence of the certificate for all purposes whatsoever, without further evidence of such copy, and without accounting for the non-production of the certificate. R. S. O. 1887, c. 113, s. 30.

Conveyance
by the Court
in case of sale.

31.—(1) In case of a sale by the High Court the Court, if it thinks fit, may investigate the title with a view to granting an indefeasible title, and in that case, a conveyance executed to the purchaser, under the seal of the Court and purporting to be under the authority of this Act, shall have the same conclusive effect as a certificate.

Form.

(2) The conveyance may be according to Form 5 given in the schedule to this Act. R. S. O. 1887, c. 113, s. 31.

Where an in-
defeasible title
is contracted
for.

32. Where judgment is given for the specific performance of a contract for the sale of an estate, and it is part of the contract that the vendor shall have an indefeasible title, the Court shall make the like investigation, and the conveyance may be according to Form 5 aforesaid. R. S. O. 1887, c. 113, s. 32.

JUDICIAL INVESTIGATION OF PARTICULAR FACTS AFFECTING TITLES.

Right to judi-
cial investiga-
tion of some
fact, which
may affect a
title.

33. In case a person domiciled in Ontario, or claiming any real estate in Ontario, desires to establish, not his title to some specific property, but generally that he is the legitimate child of his parents, or that the marriage of his father and mother, or of his grandfather and grandmother, was a valid marriage, or that his own marriage was a valid marriage, or that he is the heir, or one of the co-heirs of any person deceased, or that he is a natural born subject of Her Majesty, he may if the said Court thinks fit, have any of the said matters judicially investigated and declared. R. S. O. 1887, c. 113, s. 33.

Application.

34. The application may be by a short petition stating the object of the application. R. S. O. 1887, c. 113, s. 34.

How the peti-
tion must be
supported.

35. The petition shall be supported by an affidavit of the applicant verifying the statements of the petition, and stating further that his claim is not disputed or questioned by any person; or if his claim is to his knowledge disputed or questioned, he shall set forth the facts in relation to such dispute or question, and shall depose that he is not aware of any dispute or question except what he has set forth, and he shall state in the affidavit such other facts as may satisfy the Court of the propriety of proceeding with the investigation. R. S. O. 1887, c. 113, s. 35.

Investigation,
proof, etc., in
such case.

36. The investigation shall be made by the same judicial authority, and in the same manner, and on the same evidence, and the same publication or other notice shall be required, and the same proceedings generally shall be had, and the certificate

granted on such investigation shall be registered in the same way, and may be proved by the same evidence, as nearly as may be respectively, as in cases under section 2 of this Act. R. S. O. 1887, c. 113, s. 36.

37. Such certificate when registered shall be conclusive and indefeasible in favour of the party on whose application the same was granted, and all persons claiming by, from, through or under him, and shall be *prima facie* evidence in favour of all other persons, and against all persons of the truth of the fact therein declared. R. S. O. 1887, c. 113, s. 37.

Effect of certificate.

APPEALS.

38. An appeal shall lie from any order or decision of a Judge under this Act to a Divisional Court, or to the Court of Appeal, and from the order or decision of the Divisional Court to the Court of Appeal in the same manner and subject to the same restrictions as in the case of appeals from a judgment or order of the High Court in an action. 59 V. c. 18; Schedule (41).

Appeals.

MISCELLANEOUS.

39. A separate book shall be kept in the High Court for the registering of these and other certificates of title, and conveyances given under this Act, and the certificates and conveyances registered therein shall be numbered in order, and convenient indexes to the book shall be kept in such form as the Court from time to time directs. R. S. O. 1887, c. 113, s. 38.

Register to be kept.

40. In case any person who, if not under disability, might have made any application, given any consent, or done any act, or been party to any proceeding under this Act, is a minor, an idiot or a lunatic, the guardian of the minor, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceeding as such person might, if free from disability, have made, given, done or been party to, and shall otherwise represent such person for the purposes of this Act; and if the minor has no guardian, or the idiot or lunatic no committee of his estate the Court or Judge may appoint a person with like power to act for the minor, idiot or lunatic; but a married woman shall, for the purposes of this Act, be deemed a *feme sole*. R. S. O. 1887, c. 113, s. 39.

Where any party is a minor, lunatic, etc.

Married women.

41. After a certificate is granted in regard to any of the matters investigated under this Act, any party aggrieved thereby may, on petition, and after satisfactorily accounting for his delay, have the title or claim re-investigated on such terms as may be just. R. S. O. 1887, c. 113, s. 40.

Re-investigation at the instance of any party aggrieved.

42. No proceeding on such petition shall affect the title of any person who, in the meantime, and after the registration of the certificate, has acquired, by sale, mortgage or contract, for

But those who have purchased, etc., in the meantime, not to be affected

valuable consideration, any estate or interest in the land specified in the certificate of title, or (in case the certificate was under section 33 of this Act) in any land or other property, the title to which was derived from, through or under the person named in the certificate, in the character which is thereby declared to belong to him. R. S. O. 1887, c. 113, s. 41.

No objection to proceeding to establish title that petitioner should first have brought an action.

43. Where a petition is filed under this Act, no objection thereto shall be allowed upon the ground that the petitioner should first have brought an action, and if it appears upon the determination of the investigation that the petitioner is entitled to the possession of the real property the title to which is sought to be quieted under this Act, he may obtain an order against the respondent for the delivery of possession thereof, and writs of execution shall issue accordingly. R. S. O. 1887, c. 113, s. 43.

Proceedings not abated by certain events.

44. Proceedings under this Act shall not abate or be suspended by any death or transmission or change of interest, but in any such event the Court or Judge may require notices to be given to persons becoming interested, or may make any order for discontinuing, or suspending, or carrying on the proceedings, or otherwise, in relation thereto, as under the circumstances may be just. R. S. O. 1887, c. 113, s. 44.

Proceedings not void for want of form.

45. No petition, order, affidavit, certificate, registration or other proceeding under this Act shall be invalid by reason of any informality or technical irregularity therein, or of any mistake not affecting the substantial justice of the proceeding. R. S. O. 1887, c. 113, s. 45.

How this Act shall be construed.

46. The foregoing provisions of this Act shall be so construed and carried out as to facilitate, as much as possible, the obtaining of indefeasible titles by the owners of estates in land, through the simplest machinery, at the smallest expense, and in the shortest time, consistent with reasonable prudence in reference to the rights or claims of other persons. R. S. O. 1887, c. 113, s. 46.

Certificate to be void if obtained by fraud.

47. If in the course of any proceeding before the Court under this Act, any person acting either as principal or agent, knowingly and with intent to deceive, makes, or assists, or joins in, or is privy to the making of any material false statement or representation, or suppresses, conceals, or assists, or joins in, or is privy to the suppression, withholding, or concealing from the Court of, any material document, fact or matter of information, any order or declaration of title obtained by means of such fraud or falsehood, shall be null and void for or against all persons other than a purchaser for valuable consideration without notice. R. S. O. 1887, c. 113, s. 47.

Exception.

Conviction for fraud not to affect other remedy.

48. No proceeding for any contravention of section 47 of this Act, and no conviction for any criminal offence committed

in the course of any proceeding under this Act shall affect any remedy which any person aggrieved thereby may be entitled to against the person who has committed the same.

R. S. O. 1887, c. 113, s. 48.

49.—(1) A Judge or Referee under this Act shall, in respect of any petition before him, have the like powers as the Master of Titles has under *The Land Titles Act*.

(2) The rules and procedure enacted by *The Land Titles Act*, or any rules hereafter made, shall apply, so far as may be, to proceedings under this Act, except rules to be hereafter made which shall thereby be declared not so to apply, but this subsection shall not apply to the City of Toronto or the County of York.

(3) Nothing in this section contained shall be construed to ^{Supervision} dispense with supervision over Referees by the Inspector of ^{over Referees.} Titles, or to prevent further rules being enacted in respect thereof. R. S. O. 1887, c. 113, s. 49.

50. The Judges authorized under sections 122, 124 and 125 of *The Judicature Act* may from time to time, make General Rules for referring all or any applications under this Act to any Master, local Master or other officer of the Court, or to any counsel or other person appointed by the Court, in that behalf, and to regulate the fees to be paid on such reference; and the referee shall have the same powers as a Judge within the limits prescribed by such General Rules; and the said Judges may also, from time to time, make other General Rules for the purposes of this Act, and for regulating the practice under the same; and all General Rules made in pursuance of this section may, from time to time, be rescinded or altered by the said Judges.

R. S. O. 1887, c. 113, s. 50.

Court may make General Rules for carrying out this Act.
Rev. Stat. c. 51.

SCHEDULE OF FORMS.

FORM 1.

(Section 5.)

FORM OF PETITION TO QUIET A TITLE.

In the High Court of Justice.

In the matter of (the East half of lot No. _____) in the
Concession in the Township of _____ or as the case may be, describing
the property very briefly).

To the Honourable the Judges of the High Court of Justice for Ontario,
The Petition of

SHEWETH,—

That your Petitioner is absolute owner in fee simple in possession (or as the case may be) of the following property (describing it).

That there is no charge or other incumbrance affecting your Petitioner's title to the said land, (except, *etc.*, or that your Petitioner's title is subject only to the charges or incumbrances in the Schedule hereto mentioned, and that the only persons having or claiming any charge, incumbrance, estate, right or interest in the said land are set forth in the Schedule hereto annexed, and that the charge, incumbrance, estate, right or interest belonging to or claimed by each is therein set forth.) Your Petitioner therefore prays that his title to the said land may be investigated and declared under *The Quieting Titles Act*.

(Signed)

A. B.,

or

C. D., Solicitor for A. B.

R. S. O. 1887, c. 113, Sched. Form 1.

FORM 2.

(Section 6.)

FORM OF CERTIFICATE OF AN APPLICATION UNDER THIS ACT.

I certify that an application has been made by _____ to the High Court of Justice for Ontario, under *The Quieting Titles Act*, for a certificate of title to the following lands [*stating them*].

A. H.,

Clerk of Records and Writs.

R. S. O. 1887, c. 113, Sched. Form 2.

FORM 3.

(Section 18.)

FORM OF AN ADVERSE CLAIM.

In the matter of, *etc.*, (*as in petition*).

G. H., of, *etc.*, claims to be the owner of the said land, *etc.*, *etc.* (*stating very briefly the nature of the claim and the grounds of it*). Dated this day of _____, 18 ____.

(Signed)

G. H.,

or

E. F., Solicitor for G. H.

R. S. O. 1887, c. 113, Sched. Form 3.

FORM 4.

(Section 27.)

CERTIFICATE OF TITLE.

No.

These are to certify under the authority of *The Quieting Titles Act*, that *A. B.* is the legal and beneficial owner in fee simple in possession (or as the case may be) of all, etc. [here describe the property], subject to the reservations mentioned in section 26 of the said Act, and therein lettered respectively (a), (b), (c) and (d) (or as the case may be), and to (specifying either by reference to a schedule or otherwise any of the charges or incumbrances, exceptions or qualifications to which the title of *A. B.* is subject), but free from all other rights, interests, claims and demands whatever. [Or that (stating the facts found and declared under section 33 of this Act, and stating on whose application the same are declared.)]

In witness whereof
the President (or President of the Division, or one of the Justices) of the said Court has hereunto set his hand, and the seal of the High Court has been hereunto affixed, this day of .

G. S. H.,
Registrar.

J. A. B. [L. S.]

R. S. O. 1887, c. 113, Sched. Form 4.

FORM 5.

(Sections 31 and 32.)

FORM OF CONVEYANCE BY HIGH COURT.

No.

The High Court of Justice for Ontario, under the authority of *The Quieting Titles Act*, doth hereby grant unto *A. B.*, etc., [here describe the premises sold] to hold the same unto the said his heirs and assigns for ever (or as the case may be), subject to [here specify as in the case of a certificate of title.]

In witness whereof
the President (or President of the Division, or one of the Justices of the said Court) has hereunto set his hand, and the seal of the High Court has been hereto affixed, this day of , in the year of Our Lord

G. S. H.,
Registrar.

J. A. B. [L. S.]

R. S. O. 1887, c. 113, Sched. Form 5.

CHAPTER 136.

An Act respecting the Registration of Instruments
relating to Lands.

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- SHORT TITLE, s. 1.
 INTERPRETATION, ss. 2, 61 (6).
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 FEES OF REGISTRARS, ss. 118-134.
 INSPECTOR OF REGISTRY OFFICES, ss. 135-138.
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HER MAJESTY, by and with the advice and consent of the
 Legislative Assembly of the Province of Ontario, enacts
 as follows :—

Short title.

1. This Act may be cited as "*The Registry Act.*" 56 V.
 c. 21, s. 1.

2. Where the following words occur in this Act, or in the schedules thereto, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

1. "Instrument" shall include every Crown grant, Order in Council of the Dominion or of this Province, deed, conveyance, mortgage, assignment of mortgage, certificate of discharge of mortgage, assurance, lease, bond, release, discharge, power of attorney, or substitution thereof, under which any such deed, conveyance, assurance, discharge of mortgage or other instrument is executed, bonds or agreements for sale or purchase of land, letter of attorney, will, probate of will, grant of administration, municipal road by-law, certificate of any proceedings in any Court, judgment of foreclosure, and every other certificate of judgment of any Court affecting any interest in or title to land; also, certificates of payment of taxes, granted under the corporate seal of the county, city, or town by the treasurer; every sheriff's and treasurer's deed of lands sold by virtue of his office; every contract in writing; every commission and proceeding in lunacy, bankruptcy and insolvency; and every other instrument whereby lands or real estate may be transferred, disposed of, charged, incumbered or affected in any wise, affecting land in Ontario.

2 "Land" shall include lands, tenements, hereditaments, appurtenances and real estate.

3. "Will" shall include probate of will and exemplification, or notarial or prothonotarial copies of probate of will, and letters of administration with the will annexed, and any devise whereby lands are disposed of or affected.

4. "County" shall include a union of counties, a city, junior county and any part of a county or counties set apart for judicial or registration purposes. 56 V. c. 21, s. 2.

3. The Registry Divisions at present existing, as set forth in Schedule Q, are hereby continued; and whenever any county is separated for judicial purposes from a union of counties, or a new county is formed and set apart for judicial purposes, there shall be a separate Registry Office established therein by the Lieutenant-Governor in Council, which office shall be kept in the county town in like manner as in other county towns. 56 V. c. 21, s. 3.

4. There shall be separate registry divisions for the city of Toronto, to be called respectively, East Toronto and West Toronto. 56 V. c. 21, s. 4.

5. The registry building now on Richmond Street West in the City of Toronto, shall be and continue to be the offices of the Registry Divisions of East and West Toronto. The former Registrar of the City of Toronto shall, during pleasure and without new appointment, be Registrar for the registry division of West Toronto. 56 V. c. 21, s. 5.

Provision for
registry and
land titles
offices in
Toronto.

6. The Council of the City of Toronto shall, by addition thereto to be approved by the Lieutenant-Governor in Council provide in or in connection with the present registry building, or otherwise, sufficient safe and proper fire-proof offices and vaults for the Registry Offices for both divisions of East and West Toronto, and for the Office of Land Titles for the said City, and shall furnish the same in accordance with the provisions of this Act and *The Land Titles Act* respectively. 56 V. c. 21, s. 6.

Rev. Stat. c.
138.

What books,
etc., to remain
in custody
of Registrar
of East
Toronto.

7.—(1) The registry books, and all books of indexes, which have been kept exclusively for the Registry Division of East Toronto, and likewise all original memorials, all original duplicates, and all deeds, conveyances and wills, and all other instruments, and all maps or plans lodged according to law in his office, and relating exclusively to lands within the Division of East Toronto, shall remain in the custody of the Registrar of East Toronto.

What books,
etc., to be
kept by Reg-
istrar of West
Toronto.

(2) All other abstracts, index books and registry books original memorials and original duplicates, and all deeds, conveyances and wills, and all other instruments and maps or plans, affecting lands in both Registry Divisions, shall remain and continue with the Registrar of the Registry Division of West Toronto.

General reg-
istry in West
Toronto office.

(3) All wills and instruments in which there is a general devise, conveyance or power affecting lands in the City of Toronto without local description, shall be registered in the Registry Division of West Toronto.

Duty of Reg-
istrar of West
Toronto as to
matters affect-
ing lands in
East Toronto.

(4) The Registrar of the Registry Division of West Toronto is hereby authorised and empowered to certify to all abstracts of title and copies of instruments from such books retained in his office, and affecting lands in the Registry Division of East Toronto, and he shall permit searches to be made therefrom, whenever required to do so, upon being paid the ordinary fees.

Abstract
Clerk.

(5) The present Abstract Clerk shall be the Abstract Clerk of the two Divisions, during the pleasure of the Lieutenant-Governor, and shall perform such other duties as the Lieutenant-Governor may direct. His salary shall be paid by the two Registrars, one-half by each, or in such other proportions as the Lieutenant-Governor may from time to time direct.

Inspection of
books, etc., in
Toronto regis-
try offices by
Master of
Titles.
Rev. Stat.
c. 138.

(6) The Master of Titles is to be at liberty to inspect, by himself or his clerks, all books and papers in the said offices for his own information as such Master, without payment of fees, subject to any general rules to be made under the authority of *The Land Titles Act*. 56 V. c. 21, s. 7.

Registry office
may be re-
moved.

8. Where the Registry Office in any Division appears to the Lieutenant-Governor in Council to be inconveniently situated, he may by proclamation order the same to be removed to any other place in the Division. 56 V. c. 21, s. 8.

9. For the safe-keeping and protection of all books, memorials, duplicates, and other instruments of whatever description, and plans, belonging to the office of Registrar, the council of every county where, at any time there are no safe and proper fire-proof offices and vaults provided by the council, or where hereafter any Registry Office is established, shall provide, furnish and maintain, and keep in good repair, a safe and fire-proof Registry Office, fire-proof vaulted, upon a plan and on a site to be approved by the Lieutenant-Governor in Council: and the said council shall keep the said Registry Office furnished with fuel and furniture and in good repair, and towns separated from counties for municipal purposes, and cities in which no separate Registry Offices exist, shall bear a ratable proportion of the expense thereof, based on the assessment of all the municipalities within the jurisdiction of the county. 56 V. c. 21, s. 9.

County Councils to provide fire-proof offices and vaults.

REGISTRARS

10. Every Registry Office shall be kept by an officer to be called the Registrar. 56 V. c. 21, s. 10.

11. The Lieutenant-Governor shall, as occasion may require from time to time, by commission, under the Great Seal of the Province, appoint a fit person to the office of Registrar, and shall, in like manner, fill any vacancy occurring by the death, resignation, removal or forfeiture of office of any Registrar, and every Registrar heretofore appointed or hereafter to be appointed shall hold office during pleasure only. 56 V. c. 21, s. 11.

Registrars, how appointed, etc.

12. The Lieutenant-Governor may from time to time by Order in Council fix and determine the amount of the security to be given, as hereinafter mentioned, by each Registrar; but the amount of such security shall be not less than \$4,000, nor more than \$10,000. 56 V. c. 21, s. 12.

Amount of security to be given.

[As to security of Registrars in the Unorganized Districts, see Cap. 109, sec. 79.]

13.—(1) Subject to the provisions of section 24 of *The Act respecting Public Officers*, before any Registrar is sworn into office, he shall execute and enter into a joint and several covenant in duplicate with two or more sufficient sureties to be approved by the Lieutenant-Governor in Council for such amounts as may be fixed and determined by Order in Council in that behalf as aforesaid.

Security to be given by Registrars. Rev. Stat. c. 15.

(2) Such covenant may be in the form of Schedule A to this Act, or to the like effect; and to each of such covenants shall be attached an affidavit in the form of Schedule B to this Act, or to the like effect, made by each of the sureties therein mentioned.

(3) One of the duplicates with the affidavits appended shall be forthwith transmitted to the Provincial Secretary, to be by him retained, and the other duplicate with the affidavits aforesaid, shall be by the Registrar forthwith filed in the office of the Clerk of the Peace for the said county or union of counties where the same shall remain on record. 56 V. c. 21, s. 13.

New covenants may be required by Inspector.

14. Any Registrar, whether appointed before or after the passing of this Act, may at any time be required by the Inspector of Registry Offices, with the approval of the Lieutenant-Governor in Council, to execute new covenants in the form and to the effect hereinbefore provided, or to furnish other sureties as may be deemed expedient, or both, and in default thereof shall be subject to the penalties mentioned in section 25 of this Act. 56 V. c. 21, s. 14.

Copies may be obtained by any person.

15. Any person may examine and obtain a copy of the Registrar's covenant and affidavits on payment to the Clerk of the Peace of a fee for the copy and search, of one dollar, or for the search, of twenty-five cents. 56 V. c. 21, s. 15.

Rev. Stat. c. 16, ss. 15-20 to apply to securities.

16. Sections 15 to 20 inclusive of *The Act respecting Public Officers*, shall apply to securities given by Registrars. 56 V. c. 21, s. 16. *See also Cap. 16, secs. 24-27.*

Lieutenant-Governor may require Registrars to give security.

17. The Lieutenant-Governor, upon the application of any county or city interested, or without such application if he thinks fit, may require any Registrar to give security in such form and for such an amount as the Lieutenant-Governor in Council determines to be sufficient to secure the due payment of any moneys payable by the Registrar to the county or city. 56 V. c. 21, s. 17.

Sureties of Registrars.

18.—(1) A surety for a Registrar who is no longer disposed to continue his responsibility, may give notice thereof to the Registrar and to the Provincial Secretary, and in such case the Registrar shall, under penalty of forfeiture of his office, furnish a new surety in lieu of the surety so giving notice, and shall complete and transmit the necessary covenant in that behalf to the Provincial Secretary within one month after the notice, and shall procure the approval of the new security within two months after the notice.

(2) All accruing responsibility on the part of the person giving the notice shall continue until the perfecting and approval of the new security, and shall thereupon cease. 56 V. c. 21, s. 18.

Liability of registrars and their sureties.

19. The Registrar and his sureties shall be jointly and severally liable on their covenant to any aggrieved person or persons to indemnify him or them against any damage or loss sustained by him or them, by or through the neglect or misconduct of the

Registrar or his deputy in the performance of the duties of his office, not exceeding the penalty named therein, but this provision shall not exempt the Registrar from any further responsibility to persons sustaining damage or loss as aforesaid. 56 V. c. 21, s. 19.

20. Every Registrar, before he enters upon the execution of his office shall, before two or more Justices of the Peace for the county, take the oath given in the form of Schedule C to this Act, which shall be transmitted to the Provincial Secretary, together with the recognizance and covenant aforesaid. 56 V. c. 21, s. 20.

Registrar's
oath of office.

21.—(1) The Registrar may by writing under his hand and his seal of office, nominate a deputy or deputies in his office, who may perform all the duties required under this Act, in the same manner and to the like effect as if done by the Registrar; and any Registrar may remove his deputy and appoint another in his place whenever he thinks it necessary; and in case of the death, resignation, removal or forfeiture of office of the Registrar, the Deputy Registrar, or in case of their being more than one, the senior Deputy Registrar, shall do and perform all and every act, matter, and thing necessary for the due execution of the said office, until a new appointment of Registrar is made by the Lieutenant-Governor. 56 V. c. 21, s. 21.

Appointment
of deputies.

Removal.

Power of deputy
in case of
death or
removal of
registrar.

(2) In the case of the death, resignation or removal of a Registrar, if there be at the time no Deputy Registrar, the County or District Attorney for the county or district, as the case may be, shall *ex-officio* be the Registrar *pro tempore*, until another person is appointed Registrar and the County or District Attorney on becoming Registrar *pro tempore* may appoint a Deputy-Registrar, and shall do and perform every other act, matter or thing necessary for the execution of the office. 58 V. c. 6, s. 1, part.

Where vacancies occur in
office of
registrar and
there is no
deputy,
county
attorney to
act.

(3) The Registrar *pro tempore* shall be answerable for the execution of the office in all respects and to all intents and purposes whatsoever, during such interval as the Registrar so dying, resigning or having been removed, would by law have been if he had been living or continuing in office, and any security given on or after the 16th day of April 1895 by a Registrar so afterwards dying, resigning or being removed as aforesaid shall be a security to the Queen, her heirs and successors, and to all persons whatsoever, for the due and faithful performance of the duties of his office by the Registrar *pro tempore*. 58 V. c. 6, s. 2, part.

Temporary
officer to be
responsible.

22. Every Deputy Registrar before he enters on the execution of his office, shall, before two or more Justices of the Peace for the county take the oath appointed to be taken by the Registrar, or an oath to the like effect, which oath shall be

Deputy's
oath of office.

forthwith transmitted to the Provincial Secretary. 56 V. c. 21, s. 22.

Registrars or Deputies, etc., not to act as agents, for persons taking securities on real estate, or in selling land or advise as to titles, etc., in their Counties.

23.—(1) No Registrar or Deputy Registrar or clerk in his office shall, directly or indirectly, act as the agent of any corporation, society, company, person or persons investing money and taking securities on real estate within his county, nor shall the Registrar or Deputy Registrar, or any clerk in the office advise, for fee or other reward, or otherwise, upon titles of land, or practise as a conveyancer, or act as an agent for the sale of land, within his county, nor shall he carry on or transact within the Registry Office, any other business or occupation whatever, upon pain of forfeiture of office. 56 V. c. 21, s. 23 (1); 60 V. c. 14, s. 19.

Registrars not to engage in certain callings.

(2) No Registrar appointed on or after the 27th day of May, 1893, shall practise for gain as a Barrister, Solicitor, Physician or Surgeon; nor shall any Registrar appointed before the said date where the net income from his office is more than \$1,000, nor shall any Deputy Registrar or clerk in the office of the Registrar, carry on a practice as a Physician or Surgeon during office hours other than a consulting practice, or out of office hours other than a consulting or office practice at his home, nor take any proceedings under the power of sale in any mortgage or other instrument affecting land either as solicitor or agent, nor shall he personally or as a member of a firm carry on a loaning business or be in any way connected with any firm having business to transact in the office of such Registrar.

Work in registry office to be personally supervised by Registrar.

(3) The work of the Registry Office shall be conducted and carried on in all cases under the direction and immediate supervision of the Registrar, whether heretofore or hereafter appointed. 56 V. c. 21, s. 23 (2, 3).

DUTIES OF REGISTRARS.

Residence of Registrars.

24. Every Registrar shall reside within ten miles of his office and shall keep his office at the place named in his commission or otherwise as appointed by the Lieutenant-Governor in Council, or by any Act in force respecting the same. 56 V. c. 21, s. 24.

Removal for misconduct.

25. If a Registrar in any manner misconducts himself in his office or neglects to perform his duty in every respect as required of him by this Act, or commits or suffers to be committed any undue or fraudulent practice in the execution thereof, then such Registrar may, at the discretion of the Lieutenant-Governor in Council, be dismissed, and he shall, moreover, together with his sureties, so far as their covenants extend, be liable to pay all damages, with full costs of suit, to any person injured thereby, to be recovered by action in the High Court; and any Deputy executing the office of Registrar during any vacancy by death, resignation, or forfeiture of the

Liability of Registrar.

Registrar, shall, together with the sureties of the Registrar as far as their covenants extend, be for the same cause, and in like manner liable as the Registrar and his sureties are in this section declared to be liable. 56 V. c. 21, s. 25.

26.—(1) Except as hereinafter in this section provided the Registrar or his Deputy shall, for the discharge of all duties belonging to the said office attend at his office from the hour of ten in the forenoon until four in the afternoon, every day in the year, holidays excepted, and no instrument shall be registered by him on any holiday, nor shall any instrument be received for registration by him except within the hours above named. 56 V. c. 21, s. 26 (1).

Deputy
executing
office.

Hours of
attendance at
office.

(2) The Registrars for the East and West Divisions of the City of Toronto and the Registrar of the County of York, or their respective deputies, shall attend at their offices for the transaction of business on Saturday, from the hour of ten in the forenoon until one in the afternoon and no longer, and no instrument shall be received by them for registration on that day except within the hours above named. 56 V. c. 21, s. 26 (2).

Of registrars
for Toronto
and York on
Saturday.

(3) None of the other Registrars shall, after one o'clock in the afternoon on Saturdays during the long vacation, namely, from the 1st day of July to the 31st day of August, both days inclusive, register any instrument, nor shall any instrument be received for registration by them, nor shall it be obligatory to attend at their offices for the transaction of business after the said hour of one o'clock on Saturdays during the said period of the long vacation. 59 V. c. 29, s. 6.

Office hours
of other regis-
trars on Sat-
urday during
long vacation.

27.—(1) The Registrar shall, when required, and upon being tendered the legal fees for so doing, make searches and furnish copies and abstracts of or concerning all instruments or memorials registered, mentioning any lot of land as described in the patent thereof from the Crown, or any lot described by number or letter on any registered map or plan subsequent to the registration of the map or plan, or any part of a lot where the same is clearly described and can be identified in connection with the chain of title, or has been ascertained by actual survey; and of and concerning all wills, deeds, orders, or other instruments recorded, as may be requested of him in writing, if a writing is demanded by the Registrar; and he shall exhibit the original registered instrument, and also the books of the office relating thereto when the party desires to make a personal inspection thereof, and shall give certificates of all copies and extracts under his hand of and concerning the parties to any of such documents, or of the witnesses to the same, or any other particulars which may be required, but no Registrar shall allow any such book or instrument to be taken out of his possession or custody.

Registrars to
make searches
and abstracts.

To exhibit ori-
ginals of in-
struments, etc.

To certify
copies, etc.

Certificate of Registrar on abstracts.

(2) Every abstract furnished by a Registrar shall be commenced and certified to in the words following:—

Ontario, Registry Office, County of

Abstract of title

I certify that the above (*or the following*) are correct extracts from the only instruments recorded in this office which mention or refer to (*describe property sufficiently for identification*). This abstract does not purport to give entries from the General Register.

Dated at this day of A. D. at the hour of

Registrar, or Deputy-Registrar. { L. S. }

Non-liability for certain errors or omissions.

(3) No Registrar shall be liable in respect of entries of instruments or errors or mistakes in the entries of instruments or in respect of omissions by any of his predecessors in the office of Registrar, nor for any defect or inaccuracy in any abstract or certificate arising from such error, mistake or omission, unless he had become aware or had knowledge of the error or mistake in the said entries, or unless such abstract or certificate shall be defective or inaccurate to the knowledge of the Registrar or his deputy or the clerk by whom such abstract or certificate is made or signed. 56 V. c. 21, s. 27.

Registrar to have a seal of office.

28. Every Registrar under this Act shall have a seal of office, to be approved of by the Inspector, and on request of any person, shall furnish an exemplification or certified copy under his hand and seal of office, of any instrument or memorial deposited, registered, or filed, and kept in his office as Registrar, which exemplification or certified copy shall, subject to section 47 of *The Evidence Act*, be received as *prima facie* evidence in every Court in Ontario, in the same manner and with the same effect as if the original thereof, in his office, was produced; and no Registrar or Deputy Registrar shall be required to produce any paper in his custody as Registrar or Deputy Registrar, unless ordered by a Judge of one of the Courts of Ontario, which order shall be produced to the officer issuing the subpoena requiring such production, and shall be by him noted in the margin of the subpoena, and signed by such officer. 56 V. c. 21, s. 28.

Rev. Stat. c. 73.

Not bound to produce any papers, except on order of a Judge.

[As to filing a certified copy in Court in lieu of original produced on subpoena, see Chap. 73, sec. 48.]

BOOKS OF OFFICE.

Treasurer to provide proper books.

29.—(1) The treasurer of the county or city shall provide a fit and proper registry book for each township, reputed township, city, town, town plot laid out by the Crown, and incorporated village, the limits whereof are defined by law, and all index and other books required for the business of the office; and all registry books shall be as nearly as may be of the like size and description as those heretofore furnished, and shall continue to be of one uniform size as nearly as practicable;

and from the time the books are so provided and received at the Registry Office, the person who holds and executes the office of Registrar, shall keep and cause to be used for that purpose, a separate registry book for and of each township, reputed township, city, town, town plot laid out by the Crown, and incorporated village, the limits whereof are defined by law, within the county for which he holds office; and he shall also keep and cause to be used for that purpose a general registry book for the whole county, in which shall be recorded all wills, probates, grants of administration and instruments in which there is a general devise, conveyance, release, acknowledgment or power affecting lands without local description, and in which book an alphabetical index of the names of all the parties mentioned by name in every such instrument shall also be kept; and whenever any Registrar requires a new registry book, or any other book for the use of his office, the same shall, on his application therefor, in writing, be furnished to him by the treasurer, and all books so furnished, shall be paid for by the treasurer out of the county or city funds, as the case may be, and all books so furnished, used and kept, shall be deemed to be the property of Her Majesty for the use and benefit of the public; and the Inspector shall have power, when, for the despatch of business, he finds it necessary, by order in writing, to permit more than one registry book to be in use at the same time for the same municipality. 56 V. c. 21, s. 29. 59 V. c. 29, s. 1.

General
registry book.

New books.

(2) Where prior to the 7th day of April 1896, wills had been recorded in the separate books of a registry division, but not in the general registry book thereof when the same ought to have been recorded therein, the Inspector shall have the power, by order in writing, to direct that an alphabetical index of the names of all parties mentioned by name in such wills and designating the book or books and the pages thereof in which such wills are recorded shall be prepared and kept, and the county or city treasurer shall, for such index and the preparation thereof, pay such sum as the Inspector may order in writing. 59 V. c. 29, s. 5.

Index of wills
omitted from
general reg-
istry book

30. If the treasurer refuses or neglects to furnish such books within thirty days after application therefor, the Registrar may provide the same and recover the cost thereof from the municipal corporation of the county or city in default. 56 V. c. 21, s. 30.

If the treas-
urer neglects
to provide
books.

31. The Judge of the County Court or Warden of the County judge, county, or Mayor of a city, or the Stipendiary Magistrate of the district shall give a certificate respecting each registry or other book, so furnished or provided, in the form of Schedule D to this Act, or to the like effect, and in case of refusal shall be liable to the same penalties as are imposed by section 34 of this Act. 56 V. c. 21, s. 31.

Warden or
stipendiary
magistrate
certify books

Provision
when any
place is separ-
ated from a
County.

Certain books,
etc., to be
transferred.

32.—(1) Where any county, city, town, town plot laid out by the Crown, incorporated village, township, reputed township or place, making part of a county wherein a separate Registry Office is or has been kept, is or has been detached from some union or county and set apart for registration purposes, or attached to or made part of another county for which a separate Registry Office is also kept, or where a separate Registry Office is established in any county or junior county, according to the provisions of this Act, the Registrar of the county from which such localities are so detached, shall deliver to the Registrar of the county set apart, or of the county whereunto the same is attached, the registry book or books and all other books and indexes which have been kept according to the statute, exclusively for such county, city, town, town plot, incorporated village, township or reputed township or place, the original memorials and original duplicates of all deeds, conveyances and wills of, or relating exclusively to, any lands within the same, and all other instruments, and all maps of cities, towns or villages within the same, lodged according to law in his office.

Delivery of
abstract index
books, registry
books, etc.

(2) Such first mentioned Registrar shall also deliver an abstract index book of all titles to lands within each of the detached localities, registered before separate registry books were kept for each township or place; and also a proper registry book containing full and complete copies of all memorials and other registered documents affecting such lands, which by reason of their relating to two or more localities, cannot be delivered, or which though affecting one locality are entered in a registry book that is not delivered over, such copies being entered in the book in the same order and relation in which they were originally inserted, and there being inserted on the margin of the book opposite to each memorial or instrument, the number thereof and the particular time at which the memorial or instrument was originally recorded as endorsed on the back thereof by the Registrar or his Deputy, at the time of the original registration thereof, and the book shall be accompanied by an alphabetical index of names.

Copies of in-
struments
in general
registry book,
etc.

(3) Such first mentioned Registrar shall also deliver as aforesaid a proper registry book containing a copy of every will and other instrument registered in any general registry book in which the names of any of the parties thereto have been entered in the alphabetical index kept for the locality so being detached; and shall also deliver a true copy of the alphabetical index attached to any general registry book; he shall also carefully compare all such entries with the original entries in the registry books in his office and indorse a certificate to that effect in each book before delivering the same. Instruments received by the Registrar of one county or Registry Division from the Registrar of another after the year 1885, shall be copied by the Registrar by whom they were or are received.

(1) The Registrar receiving such books, and his successors shall keep the same among the registry books of his office, and shall deal with them in all respects in like manner, as those originally supplied to and kept therein. 56 V. c. 21, s. 32.

How such books dealt with.

(2) Any Registrar who refuses to deliver the books, plans, duplicates, indexes or memorials, aforesaid, within six months after demand in writing therefor, made upon him by the Registrar entitled to receive the same, shall upon conviction thereof before any Court of Oyer and Terminer and General Gaol Delivery, forfeit his office, and be liable to a fine, in the discretion of the Court, not exceeding \$400. 56 V. c. 21, s. 33.

Penalty on registrar refusing to deliver books, etc.

(3) In case a Registrar is removed from or resigns his office, he shall forthwith deliver up all books, plans, instruments, memorials and indexes in his possession as Registrar to the person who is appointed Registrar in his stead, or to any other person who may be specially appointed in writing, by Her Majesty's Attorney-General of Ontario to receive the same and if the Registrar refuses to do so, the Attorney-General may direct the sheriff of the county to seize and take immediate possession of the same wheresoever found, and the Registrar so offending shall be liable to a fine, in the discretion of the Court, not exceeding \$2,000, and to any term of imprisonment, if the Court thinks fit to impose it, in addition to the fine, not exceeding one year. 56 V. c. 21, s. 34.

Registrar removed or resigning to deliver up books to new registrar, etc.

Proceedings in case of refusal.

(4) Where in any Registry Office, any book from age or use, becoming obliterated or unfit for future use, the Inspector shall, by directions in writing under his hand, order such book to be re-copied in a book of the same description as that required under section 29 of this Act, so far as the same can be deciphered by examination thereof and of the original memorials relating thereto, which book having the order of the Inspector for the copying thereof, under the hand of the Inspector, inserted at the beginning of the book, and having the affidavit or declaration of the Registrar or his deputy, at the end of the book, to the effect that the book so copied is a true copy of the original book of which it purports to be a copy, shall be to all intents and purposes, accepted and received as the original book, and as *prima facie* evidence that the copy is a true copy of the original book; every original book shall nevertheless, be carefully preserved, notwithstanding a copy thereof has been made, and every Registrar or his Deputy, shall be obliged to make his affidavit or declaration in this section mentioned; and the Inspector shall have power to order any book which is out of repair and unfit for use to be repaired in such manner as he thinks necessary; and he shall also have power to order plans and maps deposited in any Registry Office to be copied, mounted or bound, to be preserved in such manner as he thinks necessary; and (subject to any direction

When any book becomes unfit for further use copy to be made.

Original to be preserved.

Repairs of books, maps, etc.

of the Lieutenant-Governor in Council in this behalf) he shall in like manner have power to order as many counterparts or copies of any abstract index book to be made as he shall deem necessary for the public convenience; also to order new plans and surveys to be made of any locality or territory in any Registry Division which in his judgment have become necessary and to order new abstract indexes to be made when the indexes in use have become complicated or otherwise inconvenient. 56 V. c. 21, s. 35; 57 V. c. 35, s. 4.

Abstract
index of lots.

36. The Registrar shall, in a proper book kept for the purpose, and called the "Abstract Index," keep entered under a separate and distinct head each separate lot or part of a lot of land as originally patented by the Crown, or as defined on any plan of the subdivision of such land into smaller sections or lots after such plan has been filed in the Registry Office; and every instrument registered on and after the first day of January, 1866, mentioning such parcel or lot of land or other subdivision, and the names of every person to each instrument, and the nature of it (such as a "Will," "Grant," "Lease," "Power of Attorney,") the numbers of registration of all such instruments, for each municipality in which the land mentioned therein is situate, and the day, month, and year, of their registration, and the consideration or mortgage money mentioned therein, and such a sufficient description of the land therein mentioned as will readily identify its location, shall, by the Registrar, in addition to all entries by law required, be entered in regular order and rotation under the proper heading of each such separate parcel or lot of land mentioned in such instrument, and the book or books, to be so kept by each Registrar, for the purpose of making the said entries, shall be in the form as nearly as may be of Schedule E to this Act. 56 V. c. 21, s. 36.

Alphabetical
index of names
for each
locality.

37. Every Registrar shall also, for each township, city, town, and incorporated village, keep an Alphabetical Index of names, exhibiting in columns the number of each instrument, the names of the different grantors, and the names of the grantees, according to the form of Schedule F to this Act. 56 V. c. 21, s. 37.

INSTRUMENTS THAT MAY BE REGISTERED.

Instruments
which may be
registered.

38. Subject to the provisions of the next section, all instruments mentioned in section 2 of this Act may be registered. 56 V. c. 21, s. 38.

Registration
of leases.

39. This Act shall not extend to any lease for a term not exceeding seven years, where the actual possession goes along with the lease; but it shall extend to every lease for a longer term than seven years. 56 V. c. 21, s. 39.

40.—(1) In the case of an instrument other than a will, grant from the Crown, Order in Council, by-law or other instrument under the seal of any corporation, or certificate of judicial proceedings, a subscribing witness to the instrument shall in an affidavit setting forth his name, place of residence, and addition, occupation or calling in full, swear to the following facts : Proof of registration.

- (a) To the execution of the original, and of the duplicate if any there be ;
- (b) To the place of execution ;
- (c) That he knows the parties to the instrument, if such be the fact ; or that he knows such one or more of them, according to the fact ;
- (d) That he is a subscribing witness thereto.

(2) The affidavit may be in the form of Schedule G to this Act, or to the like effect. 56 V., c. 21, s. 40. Form of affidavit.

41. The affidavit shall be made in the instrument or securely attached thereto, and the instrument and affidavit shall be copied at full length in the Registry Book. 56 V. c. 21, s. 41. Affidavit to be registered.

42. Where an instrument is executed by one or more of the parties thereto, but not by all of them, in presence of a witness or witnesses, and by one or more of the other parties thereto in presence of another witness or other witnesses, then and in such case the witness or one of the witnesses, whether the same be so executed in the same or in different places, shall make an affidavit in accordance with section 40 of this Act as to each separate and distinct execution of the instrument before the same is registered. 56 V. c. 21, s. 42. When different witnesses see different grantors execute.

43. An instrument within the meaning of section 2 of this Act, not purporting to convey the land therein mentioned but which in its nature is, or purports to be given as a security for the payment of a debt or liability incurred by the person giving the same in respect of a purchase or delivery of any goods or in respect of an advance or loan of any money, shall not be registered unless the affidavit of execution states that the instrument was read over and explained to the owner or person executing the same, and that he appeared perfectly to understand the same, and was informed that it might be registered as an incumbrance on his land, such affidavit to be in the form of Schedule H to this Act or to the like effect. 56 V. c. 21, s. 43. Affidavit of execution in case of instruments given in respect of purchase or delivery of goods.

44. No registration under this Act of any instrument shall be deemed or adjudged void or defective by reason of the name, place of residence, addition, occupation or calling of the subscribing witness thereto not being set forth in full, or being Certain defects in affidavit not to invalidate registration.

improperly or insufficiently given or described in the affidavits mentioned in and required by sections 40 and 43, nor by reason of any clerical error or omission of a merely formal or technical character in the affidavit. 56 V. c. 21, s. 44.

Name of witness need not be set forth in full in affidavit.

45. Any instrument may be registered under this Act, notwithstanding that the Christian name or names of the subscribing witness making the affidavit is or are only set forth therein by initial letter or letters, or abbreviation or abbreviations, and not in full. 56 V. c. 21, s. 45.

Before whom to be sworn.

46.—(1) Every affidavit made under the authority of this Act shall be made before some one of the following persons:

In Ontario.

1. If made in Ontario, it shall be made before—

The Registrar or Deputy Registrar of the county in which the lands lie,

Or before a Judge of the Supreme Court of Judicature,

Or, before a Judge of the County Court within his county,

Or, before a Commissioner authorized by the High Court to take affidavits,

Or, before any Justice of the Peace for the county in which the affidavit is sworn,

Or, before a Notary Public having authority in Ontario ;

In Quebec.

2. If made in Quebec, it shall be made before—

A Judge or Prothonotary of the Superior Court or Clerk of the Circuit Court,

Or, before a Commissioner authorized under the laws of Ontario to take, in Quebec, affidavits in and for any of the Courts of record in the Province of Ontario,

Or, before any Notary Public in Quebec, certified under his official seal ;

In United Kingdom.

3. If made in Great Britain or Ireland, it shall be made before—

A Judge of the Supreme Court of Judicature in England, or Ireland, or of the Court of Session or the Justiciary Court in Scotland,

Or, before a Judge of any of the County Courts within his county,

Or, before the Mayor or Chief Magistrate of any city, borough or town corporate therein, and certified under the common seal of the city, borough or town corporate,

Or, before a Commissioner authorized to administer oaths in the Supreme Court of Judicature in England or in the Supreme Court of Judicature in Ireland or before a Commissioner authorized by the laws of Ontario to take, in Great Britain or Ireland, affidavits in and for any of the Courts of Record of the Province of Ontario,

Or, before a Notary Public, certified under his official seal;

4. If made in any British Colony, or Possession, it shall be made before— In a British Colony.

A Judge of a Court of Record, or of any Court of Supreme Jurisdiction in the Colony,

Or, before the Mayor of any city, borough or town corporate, and certified under the common seal of the city, borough or town,

Or, before a Notary Public, certified under his official seal,

Or, if made in the British Possessions in India, before any Magistrate or Collector, who is certified to be such under the hand of the Governor of such Possession,

Or, before a Commissioner authorized by the laws of Ontario to take in such British Colony, or Possession, affidavits in and for any of the Courts of Record of the Province of Ontario;

5. If made in any Foreign Country, it shall be made before— In a Foreign Country.

The Mayor of any city, borough or town corporate of such country, and certified under the common seal of the city, borough or town corporate,

Or, before a Consul, Vice-Consul, or Consular Agent of Her Majesty, resident therein,

Or, before a Judge of a Court of Record or a Notary Public, certified under his official seal,

Or, before a Commissioner authorized by the laws of Ontario to take, in such country, affidavits in and for any of the Courts of Record of the Province of Ontario.

(2). Where an affidavit of execution is required to be made out of the Province before any of the officers mentioned in clauses 2, 3 and 4 of this section, and the officer has not an official seal, it shall be sufficient for him so to certify.

Witnesses
compellable
to make affi-
davit.

47. Every subscribing witness shall be compellable, when necessary, by order of the Judge of the High Court or of a County Court, to make affidavit or proof of the execution of any instrument for the purpose of registration under this Act and to do all other acts necessary for the same purpose, upon being paid or duly tendered his reasonable expenses therefor. 56 V. c. 21, s. 47.

Affirmation or
declaration in
certain cases,

48. The proof may be either by affidavit or by affirmation or declaration, when by the law of the country where the proof is made an affirmation or declaration may be substituted for an affidavit; and the Registrar shall receive the instruments so proved without any other or further proof of their due execution. 56 V. c. 21, s. 48.

Parties not to
take affidavits.

49. None of the persons authorized to take affidavits by this Act shall take an affidavit of the execution of an instrument in case he is a party to the instrument; nor shall such affidavit for the proof of an instrument executed after the 1st day of January, 1866, be taken from a witness, unless the witness has subscribed his name in his own handwriting as such witness. 56 V. c. 21, s. 49.

Witnesses to
sign.

Witnesses in-
sane, absent,
etc.

50. Where the witnesses to an instrument are dead or are out of this Province, or have become insane, idiotic, imbecile, or of unsound mind or understanding, and whether so found by inquisition or not, or where an instrument, not by law requiring an attesting or subscribing witness thereto, has been executed without an attesting or subscribing witness thereto, or in case it is proved to the satisfaction of the Judge in this section mentioned that the place of abode or residence of such first above mentioned witnesses is unknown, any person who is or claims to be interested in the registration of the instrument, may make proof before a Judge of a County Court in Ontario, of the execution of the instrument, and upon a certificate (according to the form of Schedule I to this Act) being indorsed on the instrument and signed by the Judge, that the Judge is satisfied by the proof adduced of the due execution of the instrument, the Registrar shall register the instrument and certificate. 56 V. c. 21, s. 50.

Seal of Court
or seal of Cor-
poration with
signature of
officer to
suffice for
registration.

51. The seal of any Court of Record affixed to an instrument in writing, of itself, and the seal of any corporation affixed to any such instrument with the signature of the secretary or presiding officer thereof, shall be sufficient evidence of the due execution of the instrument by the Judge, Registrar, Clerk or officer of the Court signing the same, or by the corporation respectively, for all purposes respecting the registration thereof, and no further evidence or verification of the execution shall be required for the purpose of registration. 56 V. c. 21, s. 51.

52. Every judgment affecting land may be registered in the Registry Office of the county or other Registry Division where the land is situate, on a certificate signed by the proper officer of the Court setting forth the substance and effect of the judgment, and the land affected thereby. 56 V. c. 21, s. 54. Judgment affecting lands may be registered.

[As to registering and vacating certificates of *lis pendens*, see *Judicature Act*, Chap. 51, secs. 97 to 100.]

53. Where a power of attorney or any substitution thereof is registered, the Registrar shall deliver a certified copy or copies of such power or substitution as may be required of him, and of all the documents aforesaid connected with or relating to the same, under his signature and seal of office, in which certificate he shall declare the time, place and other particulars of registration as in other cases under this Act, and he shall also declare that the copy, which he so delivers, is a true copy of the power or substitution, and of all the other documents connected with or relating to the same of which they respectively purport to be copies, and that the originals have been duly deposited in his office according to the statute in that behalf. 56 V. c. 21, s. 55. Registrar to deliver certified copy of power of attorney registered.

54. Every such certified copy where the original power or substitution is certified to be deposited as aforesaid, may be registered in any other Registry Office, by deposit thereof, without production of the original power or substitution, and without proof of any kind other than the production of the copy so certified as aforesaid. 56 V. c. 21, s. 56. Registration of certified copy.

55. Where a power of attorney or any substitution thereof is deposited in an Office of Land Titles, a copy thereof certified by the Master, or a Local Master, may be registered in any Registry Office in the same manner as a copy of a power of attorney certified by a Registrar may be registered under section 54 of this Act. 56 V. c. 21, s. 58. Registration of powers of attorney deposited in land titles offices.

56. A copy of a power of attorney or substitution, certified as required by the three next preceding sections, shall be received in all cases in place of the original as *prima facie* evidence of the original power or substitution and of due execution, provided due notice has been given in the manner set forth in section 47 of *The Evidence Act*. 56 V. c. 21, s. 57. Copy prima facie evidence. Rev. Stat. c. 73.

57. Where it is desired to register an instrument, other than a will, in more than one registry office, the same may be registered in like manner as is provided as to powers of attorney by sections 53 and 54 of this Act, and a certified copy of such instrument shall be received as evidence to the same extent as provided for in section 56 of this Act, respecting powers of attorney. 56 V. c. 21, s. 59. Registration of instrument in several registry offices.

Registration
of notarial
copies of
instruments
executed in
Quebec.

58. Every notarial copy of any instrument executed in the Province of Quebec, the original of which is filed in any notarial office according to the law of Quebec, and which cannot therefore be produced in Ontario, and every prothonotarial copy of any instrument executed in Quebec shall be received in lieu of and as *prima facie* evidence of the original instrument, and may be registered and treated under this Act for all purposes as if it were in fact the original instrument, and such notarial or prothonotarial copy with the seal of the Notary or Prothonotary attached, shall be registered without any other or further proof of the execution of the same, or of the original thereof. 56 V. c. 21, s. 60.

INSTRUMENT IN FOREIGN LANGUAGE.

Registering
instruments
in foreign
languages.

59. Where an instrument is written in any language other than English, it shall be necessary to produce with the instrument and the affidavit of execution required by this Act a translation into English of such instrument, together with an affidavit by the translator, stating that he understands both languages and has carefully compared the translation with the original instrument of which it purports to be a translation, and that the same is in all respects a true and correct translation of such original instrument, and the Registrar shall not enter the said instrument in the language in which it is written as aforesaid, but may copy from the said translation. 58 V. c. 22, s. 1; 60 V. c. 15; Sched. A (70).

MANNER OF REGISTERING.

Generally.

Instruments
to be regis-
tered in full
unless other-
wise provided.

60. Unless where otherwise provided every instrument that may be registered under this Act shall be registered by the deposit of the original instrument or by the deposit of a duplicate or other original part thereof with all necessary affidavits and the same shall be registered at full length, including every certificate and affidavit, excepting certificates by the Registrar, accompanying the same, upon and by the delivery to the Registrar of the original instrument, when but one is executed, or when such instrument is in two or more original parts, upon and by delivery of one of such parts. 56 V. c. 21, ss. 61, 72.

Mortgages not
registered in
full.

61.—(1) The mortgagee named in any mortgage, executed on or after the 5th day of May, 1894, or the solicitor or agent of such mortgagee, may endorse thereon the words "Not to be registered in full," and in such case the Registrar shall register the mortgage in the manner provided by this Act, in the case of mortgages affecting lands, except that such mortgage shall not be copied into the books kept for that purpose in the Registry Office. The mortgage shall be numbered as other instruments are required to be numbered in the proper registry book.

in its proper order, and the marginal note made as required by section 67 of this Act. The Registrar shall at the time of the registration of a mortgage not copied in full, enter opposite the number in the registry book the words "Mortgage not copied in full" and shall also give the date and names of parties thereto. 57 V. c. 35, s. 1 (1); 58 V. c. 22, s. 2.

(2) Registration under this section shall have the same effect and consequences as and shall be equivalent to a registration under sections 60 and 96 of this Act, and all other sections thereof relating to the registering of instruments which are registered at full length, and in cases where a mortgage has not been copied in full the mortgagee and those claiming through or under him shall be entitled to all the benefits and advantages, and to all the legal and equitable rights which would accrue to him or them had the mortgage been registered at full length. This subsection shall apply to all registered mortgages not copied in full, whether registered before or after the passing of this Act. 58 V. c. 22, s. 8.

(3) Upon registration in the manner provided by subsection 1 of this section, the fee payable for registration of any mortgage, not including more than four distinct parcels of land, having a separate heading in the abstract index, shall be \$1, and for each additional lot or part of lot thereafter requiring entry to be made under a separate heading in the abstract index, 5 cents. Fee on registration.

(4) After the registration of any mortgage in the manner in this section provided, the Registrar, upon the application of any person claiming to be interested in the mortgaged lands, and upon payment of the fees prescribed, less the amount already paid for registration, shall cause such mortgage to be copied out in full in the book kept for that purpose in the Registry Office. Subsequent registry in full.

(5) The Registrar shall indicate in the abstract index, in the case of the registration of every mortgage hereafter, whether the same has or has not been registered in full, by marking opposite the same in the abstract index the words "registered in full," or "not registered in full," as the case may be. 57 V. c. 35, s. 1 (2-4). Note in abstract index of manner of registration.

(6) In this section the word "mortgagee" shall include the assignee of a mortgage, and the word "mortgage" shall include an assignment of a mortgage. 60 V. c. 14, s. 18

62. Where any instrument, signed or executed by any person by attorney, shall hereafter be registered, it shall be the duty of the Registrar on registration thereof to enter a note of the fact of such signature or execution by attorney, giving the name of the attorney or attorneys, as the case may be, on the abstract indexes and on all abstracts of title thereafter furnished by him relating to the lands affected thereby. 56 V. c. 21, s. 62. Special entry to be made when instrument executed by attorney.

Instruments
in two or
more parts.

63. In case an instrument in two or more original parts is registered, the Registrar shall endorse upon each of such original parts a certificate of the registration, in the form of Schedule J to this Act, and any original so certified, shall be received as *prima facie* evidence of the registration and of the due execution of the same. R. S. O. 1897, c. 61, s. 44. 56 V. c. 21, s. 63.

Instruments
relating to
several lots in
different
localities.

64. Where an instrument includes different lots or parcels of land situate in different municipalities in the same county, it shall only be necessary to furnish one duplicate original of such instrument, with an affidavit of its execution, and the duplicate original and affidavit shall be copied into the registry book pertaining to each city, town, incorporated village, township, or place wherein the lands therein mentioned are situate, and the Registrar shall make the necessary entries and certificates accordingly. 56 V. c. 21, s. 64.

Registration
of deeds con-
taining lands
situate in
more than one
county and of
which no
memorial has
been executed.

65. Every deed executed prior to the 4th day of March, 1868, affecting lands situate in more than one county, and of which said deed no memorial has been executed, may be recorded in any one of the counties in which some of the lands are situate, upon proof made in accordance with this Act, and in the other counties by deposit of a copy of every such deed and proof certified as is provided with respect to powers of attorney in sections 53 and 54 of this Act. 56 V. c. 21, s. 65.

Copying into
registry book.

66.—(1) The Registrar or Deputy Registrar of the county in which the lands are situate shall, upon production to him of the original instrument, duplicate or other original part thereof, together with an affidavit of execution, make an entry thereof in the abstract and alphabetical index books, and enter the said instrument in the registry book, in the order in which it is received, and he shall file the same with the affidavit of execution, and he shall endorse a certificate on every such instrument and upon every duplicate of the instrument in the form of Schedule J to this Act, and shall therein mention the certain year, month, day, hour and minute in which the instrument is entered and registered, expressing also in what book the same has been entered, and the number of registration; and the said Registrar or his Deputy shall sign the said certificate when so endorsed, which certificate shall be allowed and taken as evidence of the respective registries in all Courts.

Filing instru-
ment and
affidavit.

Certificate and
its effect.

Registrar to
see that all
copies in
registers are
correct.

(2) It shall be the duty of the Registrar or his Deputy or clerk appointed for that purpose, to see that all copies of instruments in the registers are true copies, and the Registrar or his Deputy or clerk shall certify all such copies by writing a memorandum containing the words "examined (*date*) certified true copy" in the margin opposite each copy in the register, such memorandum to be signed by the initials of the Registrar or his Deputy or clerk making the examination. When a register is completed, the Registrar or his Deputy or clerk, as

the case may be, shall at the end thereof show by statutory declarations that the copies contained in such register and certified by them respectively, are true copies of the original instruments of which they purport to be copies. 56 V. c. 21, s. 66.

67. Every page of the registry book, and every instrument entered therein, shall be numbered, and the certain year, month, day, hour, and minute of registration shall be entered in the margin of the registry books in the form of Schedule K to this Act; and the entry shall be signed by the Registrar or his Deputy. 56 V. c. 21, s. 67.

Pages and instruments to be numbered.

Minute of registration in margin.

Crown Grants.

68. Grants from the Crown shall be registered by producing the grant or an exemplification thereof to the Registrar, with a true copy sworn to by any person who has compared the same with the original; and the copy shall be filed with the Registrar. 56 V. c. 21, s. 68.

Crown Grants.

Orders in Council.

69. Orders of the Governor-General in Council or of the Lieutenant-Governor in Council may be registered in the Registry Office of the county or other Registry Division in which any land to which the Order in Council relates is situate, by a deposit of a copy of the Order certified by the Clerk of the Council. 56 V. c. 21, s. 69.

Orders in Council.

Wills.

70.—(1) Every will shall be registered at full length by the production of the original will and the deposit of a copy thereof, with an affidavit sworn to by one of the witnesses to the will, proving the due execution thereof by the testator, or by the production of probate or letters of administration with the will annexed, or an exemplification thereof under the seal of any Court in this Province, or in Great Britain and Ireland, or in any British province, colony, or possession, or in any foreign country having jurisdiction therein, and by the deposit of a copy of the probate, letters of administration, or exemplification with an affidavit verifying such copy.

Registration of wills.

(2) Where the copy of a will or of letters of probate or letters of administration has attached to it, when left or offered for registry, an affidavit or statutory declaration by the executor or administrator to the effect that after making the will the testator conveyed or parted with lands in the will described by local description, and that it was not intended or desired that the registration of the will should affect such lands, and if, in addition, it appears by the registered entries respecting such lands that the testator had parted with all his interest in or

Registration of will where testator has made subsequent conveyance of lands.

title to the said lands, the Registrar shall not register, copy or enter the will as an instrument affecting such lands, nor shall he be entitled to any fees for registering and making entries and certificates in respect thereof, but shall only be entitled to the same fees in respect of the registry of such will as he would have been entitled to had the will not contained any devise or gift of or reference to such lands by local description.

Proof of testator's death.

(3) Where a will is registered by the production of the original will, the affidavit of the subscribing witness or some other person must state that the testator is dead, either to the knowledge of the deponent, or as he has been informed and believes. 56 V. c. 21, s. 70.

Subsequent registration of will in other registry divisions.

(4) After a will which has not been admitted to probate has been registered in the manner hereinbefore provided in any registry division, such will may be registered in any other registry division by the deposit of a copy thereof certified under the hand and seal of the Registrar of the division in which such first mentioned registration took place, to be a true copy of the will as recorded in the said registry division, and the Registrar shall in his certificate state that an affidavit proving the due execution of the will has been deposited in his office. 60 V. c. 14, s. 20.

Registration of letters of administration.

Rev. Stat. c. 127.

71. Letters of administration which under *The Devolution of Estates Act* affect lands, may be registered in the same manner as probates of wills are now registered, and the Registrar shall be entitled to charge for registering letters of administration, without a will annexed, including all entries in respect thereof, a fee of one dollar. 56 V. c. 21, s. 71.

Notices of Sale under Mortgages.

Registration of notice of sale.

Rev. Stat. c. 121.

72.—(1) A notice of sale of lands under the provisions of *The Act respecting Mortgages of Real Estate*, and every notice of exercising the power of sale contained in any mortgage may be registered in the Registry Office of the Registry Division in which the lands are situated, in the same manner as any other instrument affecting the land, except that it shall not be necessary to copy the notice or affidavits or declarations attached thereto in any of the registers, and such registration shall have the same effect, and the duties of the Registrar in respect thereof shall be the same as in the case of any other registered instrument except as to the copying thereof, and the fee to be paid such Registrar for registering the same shall be fifty cents.

Proof for registration.

(2) The affidavit or declaration for the purpose of registering the notice shall be made by the person who served the same, and shall prove the time, place and manner of such service, and that the copy delivered to the Registrar is a true copy of the notice served.

(3) A copy of such registered notice and affidavit or declaration certified under the hand and seal of office of the Registrar shall in all cases be received as *prima facie* evidence of the facts therein stated. 57 V. c. 35, s. 2.

Certified copy
to be evidence.

[As to Registration of Orders and Judgments for Alimony, see Cap. 51, sec. 35; as to Registration of Notice of Seizure by Sheriff of a Mortgage, see Cap. 77, sec. 23.]

Instruments executed before the 1st January, 1866.

73. The registration of all instruments executed before the 1st day of January, 1866, may be made through memorials or by certificate or otherwise, as provided by the law in force prior to the Registry Act passed in the year 1865. 56 V. c. 21, s. 73.

Registration
of instruments
executed
before 1st
Jan. 1866.

74. The proof that would before the first day of January, 1866, have been sufficient for the registration of any instrument executed prior to the said date, shall be deemed sufficient for the registration hereafter of any such instrument; but in any such case the instrument shall be registered at full length, and the memorial and affidavit shall be deposited and filed in lieu of an original or duplicate. 56 V. c. 21, s. 74.

Proof of regis-
tration of in-
struments
executed be-
fore 1st Jan.,
1866, etc.

75.—(1) Any instrument which has been registered by memorial prior to the 1st day of January, 1866, and has indorsed thereon a certificate of the registration thereof, may be re-registered at full length in the same or any other Registry Division by the production of the original instrument and the deposit of a copy thereof, with an affidavit verifying the copy.

Registration
of instruments
in full when
memorials
previously
registered.

(2) In re-registering such instrument the Registrar shall copy the affidavit of verification and the certificate of former registration, and shall write in the margin of the registry book the words "Original not deposited," and where the former registration was made in the same office, the Registrar shall write upon the entry of the memorial in the registry book a memorandum as follows:—"Re-registered in full at No. _____," giving a reference to the number and volume where the full registration is entered, and he shall also note the re-registration in red ink wherever in an abstract index the memorial is entered.

(3) The Registrar shall also endorse upon the original instrument a certificate of the re-registration in a form similar to the certificate of registration given in Schedule J to this Act. 56 V. c. 21, s. 75.

Discharges of Mortgages.

76. Where a registered mortgage has been satisfied, whether such mortgage has been copied in full or not, the

Satisfaction of
mortgage, how
registered.

Entry in margin of register.

Effect of such registration.

Registrar, on receiving a certificate executed by the mortgagee, or if the mortgage has been assigned, then executed by the assignee, or by such other person as may be entitled by law to receive the money and to discharge the mortgage, in the form of Schedule L to this Act, or to the like effect, executed in the presence of one witness, and duly proven by the oath of the subscribing witness thereto, in the same manner as herein is provided for the proof of other instruments affecting lands, shall, if the assignment or other document of title of the assignee or other person executing the discharge has been registered, register the same, and every affidavit attached thereto or endorsed thereon, at full length in its proper order, in the registry book, and shall number it in like manner as other instruments are required to be registered and numbered, and the same shall be deemed a discharge of the mortgage, and the certificate so registered shall be as valid and effectual in law as a release of the mortgage, and as a conveyance to the mortgagor, his heirs, executors, administrators, or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor. 56 V. c. 21, s. 76 (1); 58 V. c. 22, s. 3, s. 4. part; 59 V. c. 29, s. 2.

Registration of discharge when mortgage paid off by a new loan.

77. In any case where a mortgage shall hereafter be paid off by any person advancing money by way of a new loan on mortgage on the same property and the mortgage so paid off or the discharge thereof is held by the mortgagee making the new loan or advance, the discharge of the mortgage so paid off shall be registered within six months from the date thereof, unless the mortgagor shall, in writing, have authorized the retention of the said discharge for a longer period. Such registration shall not affect the right (if any) of any mortgagee or purchaser who may have paid off such mortgage to be subrogated to the rights of the mortgagee whose mortgage debt has been so paid. 56 V. c. 21, s. 76 (2).

Registration of discharge given by person other than the mortgagee.

78.—(1) Where the person entitled to receive the mortgage money and to discharge any registered mortgage is not the mortgagee, he shall at his own expense cause to be registered prior to the registration of the certificate of discharge the instruments or documents through which he claims interest in and title to the mortgage moneys, and until such instruments or documents are registered the Registrar shall not register such certificate or discharge. 58 V. c. 22, s. 4.

Registering probate or letters of administration.

(2) Where any probate of will or letters of administration, with the will annexed, is required to be registered under the preceding sub-section, and the will is over seven folios in length, including probate or letters, and the will does not affect lands in the Registry Division, except in so far as the testator was a mortgagee or assignee of a mortgage, it shall not be necessary to register the will at full length; but for the purposes of the said subsection it shall be sufficient to register so much of the probate or letters of administration, with

the will annexed, as to show the grant of probate or such letters and the appointment of executors or administrators, as the case may be, and by the deposit in the Registry Office of a copy of so much of the probate or letters as show the grant thereof and the appointment of executors or administrators, with an affidavit verifying such copy, and an affidavit by the executor or administrator, or by one of them if there is more than one, or by his or their solicitor, to the effect that there is nothing in the will limiting the right of the executor or the administrator to receive the mortgage money and discharge the mortgage, and that the will does not affect lands in the registry division in which the probate or letters is to be registered, except in so far as the testator was the holder of a mortgage or mortgages comprising land in such Registry Division. 59 V. c. 29, s. 4.

79.—(1) In the event of the person whose duty it is under the preceding section to register such instruments or documents refusing or neglecting to register the same within fifteen days after payment of the mortgage moneys to him, then, and in every such case, the person entitled to redeem the mortgage may on giving ten days' notice thereof in writing to the person so neglecting or refusing, apply in a summary manner to any Judge of the High Court or to any Local Judge thereof in the county wherein the lands or any part thereof mentioned in the mortgage are situate for an order directing that the person so refusing or neglecting shall within a time to be fixed by the Judge, register such instruments or documents at his own expense, and the Judge upon being satisfied that the application is a proper one shall make the necessary order hereunder, either upon affidavits or *visu voce* evidence as he shall deem fit, and on being satisfied of the due service of the notice aforesaid may proceed to determine the matter in the absence of the person so neglecting or refusing as aforesaid, and in the event of such person disobeying such order, the Judge shall have the same power to punish for contempt as in any case of disobedience to an order of the Court directing any act to be performed by the person named therein.

Application to Judge for order to register instruments authorizing discharge to be given.

(2) The Judge shall also have power to award costs of the proceedings to obtain the order and incidental thereto, and to the enforcement thereof, which costs shall be on the High Court scale and shall be enforceable by execution issued on the certificate of one of the taxing masters at Toronto.

(3) The said notice shall by its terms purport to be given in pursuance of this section. 58 V. c. 22, s. 5.

80.—(1) It shall not be necessary to the validity of any certificate of discharge of mortgage given by a married woman that the husband of such married woman should be a party to or should execute the same; and it is hereby declared that any discharge of mortgage heretofore executed by a married

How mortgages to married women discharged.

woman alone, and duly registered, shall be as effectual to discharge such mortgage and to re-convey all the estate of such married woman in the mortgaged lands as if the same had been executed by the husband and wife conjointly. 56 V. c. 21, c. 77 (1).

Discharges
of mortgage
by married
women before
18th Decem-
ber, 1868,
confirmed.
32 V. c. 9.

81.—(1) All certificates of discharge of mortgage and the registration thereof, where such certificates were executed by married women or registered previously to the 19th day of December, 1868, according to the terms of the Act passed in the 32nd year of Her Majesty's reign, and chaptered nine, shall be as valid and binding as if done after the said date. 56 V. c. 21, s. 78.

Subsequent
discharges.

(2) Any such certificate given between the 19th day of December, 1868, and the 29th day of March, 1873, shall be deemed to have been sufficiently executed if it has been executed jointly by such married woman and her husband; and execution on and after the 29th day of March, 1873, either jointly by the married woman and her husband, or by the married woman alone shall be deemed sufficient execution; and it shall not be necessary to produce any certificate of such married woman having been examined before any of the persons authorized by the laws in force between said dates touching her consent thereto in anywise, but nothing in this section contained shall be construed to limit the effect of the preceding section. 56 V. c. 21, s. 77 (2).

Release of
part only of
lands mort-
gaged.

82. In case the mortgagee or any assignee of the mortgagee desires to release or discharge part only of the lands contained in the mortgage, or to release or discharge only part of the money specified in the mortgage, he may do so by deed or by a certificate to be made, executed, proven, and registered in the same manner as in cases where the whole lands and mortgage are wholly released and discharged; and such deed or certificate shall contain as precise a description of the portion of lands so released or discharged as would be necessary to be contained in an instrument of conveyance for registration under this Act, and also a precise statement of the amount or particular sum or sums so released or discharged. 56 V. c. 21, s. 79.

Discharge of
mortgage
seized under
execution.

83.—(1) When a Sheriff, Bailiff of a Division Court or other officer, under a writ or warrant of execution against goods, seizes any mortgage belonging to the person against whose effects the writ or warrant has issued, on or affecting land in the Province of Ontario, the payment with or without suit in whole or in part to the Sheriff, Bailiff, or other officer by the mortgagor or any other person of the mortgage money thereby secured shall discharge the mortgage to the extent of such payment.

Form of cer-
tificate of dis-
charge.

(2) After payment of the mortgage or any part thereof, the Sheriff, Bailiff, or other officer shall, at the request and expense

of the person requiring the same, give a certificate in the form or to the effect of Schedule M to this Act, under the hand and seal of office of the Sheriff or other officer, or under the hand of the Bailiff, and the seal of the Court of which he is Bailiff.

(3) Upon the written request of the Bailiff the Clerk of the Court shall affix to the certificate the seal of the Court; and he shall file the request of the Bailiff in his office.

Seal of Law
sion Court.

(4) The execution of the certificate shall be proved by the same oath or affirmation, and in the same manner as is provided by law for the proof for registration of other instruments affecting lands, and the certificate shall be registered in the same manner as other certificates of discharge of mortgages are registered.

Proof of exe-
cution of
certificate.

(5) Every certificate so registered, if the same is of payment in full of the mortgage, shall be as valid and effectual in law as a release of the mortgage and as a conveyance to the mortgagor, his heirs, executors, administrators or assigns, or any person lawfully claiming by, through or under him or them, of the original estate of the mortgagor as if executed by the execution debtor.

Effect of cer-
tificate.

(6) Every certificate so registered, if the same is of payment of only a portion of the mortgage, shall be as valid and effectual in law as a release of the mortgage as to such portion, as if executed by the execution debtor.

Effect of cer-
tificate of part
payment.

(7) The provisions of this section shall extend and apply to all cases in which the seizure or payment was before, or since the 21st day of December, 1874. 56 V. c. 21, s. 80.

Retrospective
operation.

84. It shall not be necessary that the residence or occupation of the attesting witness to any certificate of discharge of mortgage be stated in the attestation clause thereof; nor shall any such certificate, registered before the 29th day of March, 1873, be invalid or inoperative by reason of the omission to state in the attestation clause the residence or occupation of such attesting witness. 56 V. c. 21, s. 81.

Residence,
etc., of wit-
ness to dis-
charge of
mortgage need
not be given
in attesting
clause.

85. Instruments of the nature mentioned in section 43 of this Act, registered before as well as after the passing hereof, may be discharged, and the lands affected thereby released therefrom by filing in the Registry Office a certificate of discharge in the form contained in Schedule N to this Act, or to the like effect. 56 V. c. 21, s. 82.

Discharge of
instrument
given in rela-
tion to pur-
chase of goods.

By-Laws, etc.

86.—(1) Every by-law passed since the 29th day of March, 1873, or hereafter to be passed by any municipal council under the authority of which any street, road, or highway has been or is opened upon any private property, shall before the same becomes effectual in law, be duly registered in the Registry Office of the Registry Division in which the land

Registration
of by-laws
passed since
29th March
1873.

is situate; and for the purpose of registration a duplicate original of the by-law shall be made out, certified under the hand of the Clerk and the seal of the municipality, and shall be registered without any further proof.

As to by-laws etc., relating to roads made before 29th March, 1873.

(2) Every by-law passed before the said day, and every order and resolution of the Quarter and General Sessions passed before the said day under the authority of which any street, road, or highway, has been opened upon any private property, may at the election of any party interested and at the cost and charges of such party or municipality, be also duly registered, upon the production to the Registrar of a duly certified copy of the by-law under the hand of the Clerk of the municipality and the seal of the municipality, or by a duly certified copy of the order or resolution of the Quarter or General Sessions, given under the hand and seal of the Clerk of the Peace, as the case may be.

By-laws, etc. affecting changes in municipal boundaries.

(3) All by-laws, proclamations, Orders-in-Council and other instruments of a public, or *quasi* public nature whereby a village, town or city becomes incorporated, or the boundaries of any municipality are enlarged, diminished or in any way altered, shall be registered in the proper registry office by the municipality passing or procuring the same, and a copy of a by-law certified by the seal of the corporation and the signature of the chief officer and the Clerk thereof, and a copy of a proclamation, Order-in-Council or other instrument certified by the chief officer of the department from which the same is issued shall be sufficient proof for registration under this section. 56 V. c. 21, s. 83.

REGISTRATION AND ITS EFFECT.

Unregistered instruments after grant from the Crown to be void against subsequent purchaser or mortgagee.

87. After any grant from the Crown of lands in Ontario, and letters patent issued therefor, every instrument affecting the lands or any part thereof comprised in the grant shall be adjudged fraudulent and void against any subsequent purchaser or mortgagee for valuable consideration without actual notice, unless such instrument is registered, in the manner herein directed, before the registering of the instrument under which the subsequent purchaser or mortgagee claims. 56 V. c. 21, s. 84.

Instruments giving authority to sell and naming commission, not to bind land after one year from date.

88. Every instrument within the meaning of section 2 of this Act, which in its nature is, or purports to be, a power of attorney or authority from one person to another to sell lands, and in which instrument the commission, payment for services, or other remuneration of the attorney or agent therein named, is made a charge on the land, shall not, as against a subsequent purchaser, or the creditors of the person giving the power or authority, have effect to charge the lands with such commission, payment for services, or remuneration, after the lapse of one year from the making of the instrument. 56 V. c. 21, s. 85.

89. All wills or the probates thereof registered within the space of twelve months next after the death of the testator shall be as valid and effectual against subsequent purchasers and mortgagees, as if the same had been registered immediately after such death; and in case the devisee, or person interested in the lands devised in any such will, is disabled from registering the same within the said time by reason of the contesting of such will or by any other inevitable difficulty without his or her wilful neglect or default, then, the registration of the same within the space of twelve months next after his attainment of such will or probate thereof, or the removal of the impediment aforesaid, shall be a sufficient registration within the meaning of this Act. 56 V. c. 21, s. 86.

Wills to be registered within twelve months from death of testator.

90. Every deed made by a treasurer or other officer for arrears of taxes shall be registered within eighteen months after the sale by such treasurer or other officer; and all deeds of lands sold under process issued from any Court in Ontario, shall be registered within six months after the sale of the lands; otherwise the parties respectively claiming under any of such sales shall not be deemed to have preserved their priority as against a purchaser in good faith who has registered his deed prior to the registration of the deed from the treasurer or other officer. 56 V. c. 21, s. 87. *See also Cap. 224, sec. 204.*

Registry of deeds on sales for taxes and sales under process of Court.

91. Where deeds for lands sold for taxes, or under process of law, before the 4th day of March, 1868, have not been registered within one year after the said day, the parties respectively claiming under any such sales shall not be deemed to have preserved their priority as against a purchaser in good faith who has acquired priority of registration. 56 V. c. 21, s. 88.

Sales for taxes or under process before 4th March, 1868.

92. The registration of any instrument, under this Act, or any former Act, shall constitute notice of the instrument, to all persons claiming any interest in the lands, subsequent to such registration, notwithstanding any defect in the proof for registration, but nevertheless it shall continue to be the duty of every Registrar not to register any instrument, except on such proof as is required by this Act. 56 V. c. 21, s. 89.

Registry to be notice.

93. So far as by the last preceding section it is provided that notwithstanding any defect in the proof for registration the registration of an instrument shall constitute notice thereof, the said section shall only apply retrospectively from the 29th day of March, 1873, as to matters and facts within the meaning of section 45 of this Act. 56 V. c. 21, s. 90.

Retrospective operation of last section.

94.—(1) After an instrument has been entered in the abstract and alphabetical books, and has been copied in the registry book, no entry shall be made in the abstract index or

Entries in index and corrections

in the alphabetical index respecting such instrument, except in the manner hereinafter provided; nor, except in such manner, shall any alteration or correction be made in any entry previously made respecting any instrument, or in any copy of any instrument in any registry book.

(2) The Registrar or his deputy shall as promptly as possible after becoming aware of any omission or error in copying, cause to be made in red ink the entries, alterations or corrections which are requisite; and a memorandum stating the date of every such entry, alteration or correction shall be made in red ink in the margin of the index or registry book opposite or near thereto; and such memorandum shall be signed by the Registrar or his deputy. 56 V. c. 21, s. 91.

Penalty for unauthorized alteration of entries.

95. Any person (except the Registrar or other officer when such registrar or officer is entitled by law so to do), who alters any of the books, records, plans or registered instruments in any Registry Office, or makes any memorandum, words or figures in writing thereon, and whether in pencil or in ink, or by any other means, or in any way adds to or takes from the contents of such book, record, plan or registered instrument, shall, on summary conviction thereof, before a Justice of the Peace, forfeit and pay a penalty of not less than \$5, and not more than \$100 besides the costs, and in default of payment thereof, he shall be imprisoned in the common gaol of the county in which the offence was committed for a period of not less than three months, and with or without hard labour in the discretion of the convicting justice. 56 V. c. 21, s. 92.

When instruments to be deemed registered.

96. Every instrument capable of registration and having the proper affidavit of execution attached thereto, shall be deemed to be registered when and so soon as the same is delivered either personally or by letter to and received at his office during office hours by the Registrar or some officer or clerk in his office on his behalf, and a tender or payment made of the proper fees therefor, and thereafter no alteration shall be made by any person whatever in such instrument, and any person altering the same shall be deemed to be guilty of the violation provided for by the preceding section, and may be punished in the manner therein provided. 56 V. c. 21, s. 93.

* Actual notice.

97. Priority of registration shall prevail unless before the prior registration there has been actual notice of the prior instrument by the party claiming under the prior registration. 56 V. c. 21, s. 94.

As to equitable liens,

98. No equitable lien, charge, or interest affecting land shall be deemed valid in any Court in this Province, as against a registered instrument executed by the same party, his heirs or assigns; and tacking shall not be allowed in any case to prevail against the provisions of this Act. 56 V. c. 21, s. 95.

Tacking.

99.—(1) Every mortgage duly registered against the lands comprised therein is, and shall be deemed as against the mortgagor, his heirs, executors, administrators, assigns and every other person claiming by, through or under him, to be a security upon such lands to the extent of the money or money's worth actually advanced or supplied to the mortgagor under the said mortgage (not exceeding the amount for which such mortgage is expressed to be a security), notwithstanding that the said moneys or money's worth, or some part thereof, were advanced or supplied after the registration of any conveyance, mortgage, or other instrument affecting the said mortgaged lands, executed by the mortgagor or his heirs, executors or administrators, and registered subsequently to such first-mentioned mortgage, unless before advancing or supplying such moneys or money's worth the mortgagee in such first-mentioned mortgage had actual notice of the execution and registration of such conveyance, mortgage or other instrument; and the registration of such conveyance, mortgage or other instrument after the registration of such first-mentioned mortgage, shall not constitute actual notice to such mortgagee of such conveyance, mortgage or other instrument. 57 V. c. 34, s. 1.

Mortgages how affected by subsequent registered conveyances, where mortgage moneys paid subsequently.

(2) This section shall not apply to any action pending on the 5th day of May, 1894, and shall not affect any question of priority in respect of advances made by a mortgagee before the said date. 57 V. c. 34, s. 2.

Pending actions, &c.

MISCELLANEOUS PROVISIONS.

Plans.

100.—(1) Where any land is surveyed and subdivided for the purpose of being sold or conveyed in lots, by reference to a plan which has not been already registered, the person making the subdivision shall, within three months from the date of the survey, file with the Registrar a plan of the land on a scale not less than 1 inch to every 4 chains. The plan shall shew the number of the township, town or village lots and range or concession as originally laid out, and all the boundary lines thereof, within the limits of the land shewn on the said plan, and where such plan is a subdivision of a lot or lots on a former plan, it shall shew the numbers or other distinguishing marks of the lot or lots subdivided, and the boundary lines of such lot or lots. The plan shall also shew all roads, streets, lots and commons, within the same, with the courses and widths thereof respectively, and the width and length of all lots and the courses of all division lines between the respective lots within the same, together with such other information as is required to shew distinctly the position of the land being subdivided. R. S. O. 1887, c. 152, s. 63, (1). 56 V. c. 21, s. 96, (1).

Registration of plans when land subdivided.

Scale of plan, and what to shew.

Plans to be mounted.

(2) Every such plan shall be mounted on stiff pasteboard of good quality, and in case it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed that size. 56 V. c. 21, s. 96 (2).

Duty of Registrars thereafter.

(3) Every such map or plan, before being registered, shall be signed by the person or the chief officer of the corporation by whom or on whose behalf the same is filed, and shall also be certified by some Ontario Land Surveyor in the form of Schedule O to this Act; and thenceforth the Registrar shall keep an index of the lands described and designated by any number or letter on the map or plan, by the name by which such person, corporation or company designates the same in the manner provided by this Act; and all instruments affecting the land or any part thereof, executed after the plan is filed with the Registrar shall conform and refer thereto, otherwise they shall not be registered, except in cases provided for in section 108, and except also where a mortgage has been registered prior to the filing of such plan of subdivision in which case any discharge, final order of foreclosure or conveyance under the power contained in the said mortgage shall be registered against the lands as described in the mortgage. R. S. O. 1887, c. 152, s. 63 (2). 56 V. c. 21, s. 96 (3); 58 V. c. 22, s. 6.

Instruments must conform to such plan.

Exceptions.

Provision as to streets.

(4) No part of any street or streets shall be altered or closed up, upon which any lot of land sold abuts, or which connects any such sold lot with or affords means of access therefrom to the nearest public highway, but nothing herein shall in any way interfere with the powers now possessed by municipalities in reference to highways. R. S. O. 1887, c. 152, s. 65 (2, 3).

Power of municipalities not interfered with.

Penalty for refusing to register plan.

101. In the case of refusal by such person, corporation or company, his or their executors, administrators, agents or attorneys, or successors, for two months after demand in writing for that purpose, to lodge with the Registrar any map or plan which it is his or their duty to file under the next preceding section or to deposit under section 112 when required by any person interested therein or by the Inspector so to do, he or they shall incur a penalty of \$20 for each and every calendar month that thereafter elapses without the said map or plan being lodged with such Registrar which penalty may be recovered by any person complaining, in any Division Court in the county in which such lands are situated, in like manner as a common debt. R. S. O. 1887, c. 152, s. 63 (3), s. 69 part; 56 V. c. 21, s. 96 (4). 60 V. c. 3, s. 3, c. 15, Sched. A (59).

Verification of signature to plans.

102.—(1) The signature on a map or plan for the purposes of subsection 3 of section 100 shall be witnessed and verified as other instruments are under this Act.

Conditions as to registration of plans.

(2) The Registrar shall not accept any map or plan for the purposes of this Act which does not comply with the provisions of this Act; and shall not accept any plan on which a road less than sixty-six feet wide is laid out, unless the assent

of the proper municipal council is registered therewith, where such assent is by law necessary.

(3) The Registrar shall not receive or file, any plan or map of a subdivision of any land for which the Crown patent has not issued, unless the assent of the Commissioner of Crown Lands to such receipt and filing is endorsed thereon. 56 V. c. 21, s. 96 (5-7). Plans of unpatented lands.

(4) The Registrar shall not receive or file any plan or map of a subdivision of any land, unless the person or the corporation by whom or on whose behalf the same is filed appears on the registry books to be the owner of the land subdivided by the plan, nor unless the consent in writing of all persons and corporations who appear by the said books to be mortgagees of the land is endorsed on the plan and signed by such person or the chief officer of such corporation and such signatures are duly verified by affidavit. 59 V. c. 29, s. 3. Registrar not to file plans for anyone but owner nor without consent of mortgagees.

(5) Whenever any such plan or map has been so made and deposited as aforesaid the Registrar shall make a record of the same, and enter the day and year on which the same is deposited in his office. R. S. O. 1887, c. 152, s. 67. Duty of the Registrar on receiving plan

103. Sections 100 to 102 of this Act shall apply as well to lands already surveyed or subdivided as to those which may hereafter be surveyed or subdivided, subject to the provisions of section 109 of this Act. R. S. O. 1887, c. 152, s. 63 (4); 56 V. c. 21, s. 97. Application of ss. 100 to 102.

104. Every copy of such plan or map obtained from a registry office, and certified as correct by the Registrar or Deputy Registrar shall be taken in all Courts as evidence of the original thereof and of the survey of which it purports to be a plan or map. R. S. O. 1887, c. 152, s. 66. Copies of plans evidence.

105. The Inspector, where he deems it necessary, shall have power to direct that a plan index book shall be kept by the Registrar in manner and form directed by the Inspector. 56 V. c. 21, s. 98. Plan index book.

106.—(1) Whenever from time to time the Inspector of Registry Offices deems that the public convenience so requires, he may direct a Registrar to subdivide any township, park or other lots in a city, town or village into such blocks for abstract purposes as having regard to conveyances registered upon such lots and otherwise, he considers most convenient; and in such case an abstract index shall be prepared by the Registrar for each of the said blocks as if the same had been originally a separate lot; such abstract index shall extend from the Crown Patent onwards, and shall contain those registrations only that affect the subdivision to which the index relates. 56 V. c. 21, s. 99 (1). Abstract index to subdivisions of townships, etc.

(2) Where the original lines of the lots do not form the boundaries of such blocks, public streets shall be taken as the boundaries thereof, or otherwise as the Inspector of Registry Offices shall approve of and direct. 56 V. c. 21, s. 99 (2); 59 V. c. 29, s. 16.

(3) Where a plan of a lot or part of a lot subdividing the same has heretofore been registered, or where a plan is hereafter registered of a lot or part of a lot not previously subdivided by a registered plan, the Inspector may direct the Registrar to prepare an abstract of all instruments affecting the part subdivided, and to enter the same in the page or pages of the abstract index book immediately preceding the abstract as to the first lot on such plan.

(4) Whenever and as often as a further subdivision of any of the lots on said plan is made, the Inspector may direct the Registrar to prepare and enter in like manner an abstract of all instruments affecting the part so subdivided from the filing of the previous plan onwards.

(5) The Registrar shall be allowed for preparing such abstracts, so far as the same relate to instruments registered prior to the Inspector's directing the subdivision, such amount as the Inspector may determine to be reasonable for the work performed, and the same shall be paid by the owner who registers the plan or by the county or city as the Inspector may direct.

(6) For abstracts prepared for the purposes of plans hereafter registered, the Registrar shall be entitled to receive from the persons registering such plans, the usual fees for preparing such abstracts; such fees to be paid in addition to the fees for registering such plans. 56 V. c. 21, s. 99 (3-6).

Registration of instruments referring to an unregistered plan.

107. No instrument referring to an unregistered plan shall be registered unless where an instrument referring to such plan has been already registered in respect of the same land; and in case the Registrar objects to register any instrument on account of its referring to an unregistered plan, he shall be justified in doing so until and unless the person desiring registration of the instrument refers the Registrar to the number of an instrument previously registered in respect of the same land referring to the said unregistered plan. 56 V. c. 21, s. 100

When instruments not conforming to proper plan may be registered.

108.—(1) Where an instrument which does not conform and refer to the proper plan, as required by section 100, has been duly executed and any party thereto has died prior to the registration thereof, or in any case where it would, in the opinion of the Registrar, be impossible or inconvenient to obtain a new instrument containing the proper description, such instrument may be registered if accompanied by an affidavit annexed thereto or endorsed thereon in accordance with the form given in Schedule P.

(2) The Registrar shall thereupon enter such instrument under the lots designated in the affidavit in the abstract index in which the subdivision is entered, and no entry shall be made under the lot or lots prior to the subdivision, 57 V. c. 35, s. 3, part.

109. In sales of lands under surveys or subdivisions made before the 4th day of March, 1868, where such surveys or subdivisions so differ from the manner in which such land was surveyed or granted by the Crown that the parcel so sold cannot be easily identified, the plan or survey shall be registered within six months after the passing of this Act if the plan or survey is still in existence and procurable for registration and filing under section 100, and if it is not, a new survey or plan shall be made by and at the joint expense of the persons who have made such surveys or subdivisions, and of all others interested therein, by some duly authorized Ontario Land Surveyor, or as nearly as may be according to the proper original survey or subdivision, and the same when so made shall be filed as if under section 100 of this Act. R. S. O. 1887, c. 152, s. 64; 56 V. c. 21, s. 101.

When plan must be registered in case of lands subdivided before 4th March, 1868.

110. In no case shall any plan or survey, although filed and registered, be binding on the person so filing or registering the same, or upon any other person, unless a sale has been made according to such plan or survey, and in all cases amendments or alterations of any such plan or survey may be ordered to be made, at the instance of the person filing or registering the same or his assigns, by the High Court, or by a Judge of the said Court, or by the Judge of the County Court of the county in which the lands lie, if on application for the purpose duly made, and upon hearing all parties concerned, it be thought fit and just so to order, and upon such terms and conditions as to costs and otherwise as may be deemed expedient. An appeal shall lie from any such order to the Court of Appeal. R. S. O. 1887, c. 152, s. 65 (1); 56 V. c. 21, s. 102.

Plan not binding until some sale is made under it; alterations in plan.

Appeal.

111.—(1) Where an incorporated city, town or village, or village not incorporated, comprises different parcels of land owned at the original division thereof by different persons, and the same were not jointly surveyed and one entire plan of such survey made and filed in accordance with section 100 of this Act, the municipal council of the township within which such unincorporated village is situated, or of such incorporated city, town or village, shall, upon the written request of the Inspector or of any person interested, addressed to the clerk of the municipality, immediately cause a plan of such city, town or village to be made upon the scale provided for under this Act, and to be registered in the Registry Office of the Registry Division within which the municipality lies, which map or plan shall have endorsed thereon the certificates of the clerk and head of the municipality and the surveyor, that the same is prepared according to the directions of the municipality and

Plans of towns or villages to be registered in certain cases.

in accordance with this Act, and the corporate seal of the municipality shall be attached to the map or plan.

Payment of expenses.

(2) The expense attending the preparing and depositing of the map or plan shall be paid out of the general funds of the municipality, except in the case of unincorporated villages, where the same shall be paid by a special rate to be levied by assessment on all ratable property comprised in the unincorporated village, as described by metes and bounds in a by-law to be passed by the municipality for the purpose of levying such rate; and in case of the refusal of the municipality to comply with all the requirements of this section within six months next after being required in manner aforesaid so to do, the municipality shall incur the same penalty, and the same shall be recoverable in the manner provided in section 101 of this Act.

Registration of plans of township subdivisions in certain cases.

(3) Where land in a township has been or shall hereafter be sold under surveys or subdivisions made in a manner which so differs from that in which such land was surveyed or granted by the Crown that the parcel sold cannot be easily identified, and the map or plan has not been registered under this or any other Act in that behalf, the council of the township may at the written request of the Inspector, or of any person interested, cause a plan of any such land to be made and registered in the same manner and with the same effect as in the case of an unincorporated village; and the expenses attending the preparation of and filing of the map or plan shall be paid by a special rate to be levied by assessment on the lands comprised in said map or plan, as described in a by-law to be passed by the council for the purpose of levying such rate; and the municipality shall have the like remedies for the recovering of such last mentioned expenses as it has for compelling payment of taxes.

Obligations not impaired.

(4) Nothing in this section contained shall be deemed or construed to relieve any person from any liability, duty, obligation or penalty provided or imposed by or under any of the provisions of sections 100, 101 and 102 of this Act. R. S. O. 1887, c. 152, s. 68; 56 V. c. 21, s. 103 (1-4).

Power of County Judge to order new plans to be filed.

(5) Where any land has been sold or conveyed in lots or parcels by metes and bounds, or where portions of lots shown by any registered plan or subdivision have been sold, and the lots or parcels so sold are not distinguished by numbers or letters, the Judge of the county or district in which the land is situate may, on the application of the Inspector, after such notices as the Judge may think reasonable, on being satisfied that it is expedient so to do, make an order directing the Registrar in whose division such land is situate to have the same, or any part thereof, laid out into lots or parcels in such manner and numbered as he shall think fit, and a plan or plans thereof made in accordance with the records in the Registry Office, or from actual survey, as may be found neces-

sary, and registered in accordance with the provisions of this Act, which plan shall have the order of the Judge endorsed thereon, signed by him. The costs and expenses of and incidental to such plan and the registration thereof shall be borne by the person, corporation or municipality to be named by the Judge in the order. Such order shall be entitled in the County Court and in the matter of the lands in question, and on filing the order with the Clerk of the County Court the same may be enforced as if it were a judgment of the Court. The registration of such plan shall be binding on all parties subsequently dealing with the lands or any part thereof included in the plan or any interest in or concerning the same, but shall not affect in any way the rights or interests of any owner or other person entitled at or prior to the date of registration. 56 V. c. 21, s. 103 (5).

Costs.

Effect of registration.

112. Every person who is required to lodge with the Registrar a plan or map of any survey or subdivision of land in any municipality shall at the same time deposit with the said Registrar a duplicate of such plan or map, and the Registrar shall endorse thereon a certificate shewing the number of such plan or map and the date when the duplicate original thereof was filed with him, and the same shall upon request and without any fee being chargeable in respect thereof, be delivered by the Registrar to the treasurer or assessment commissioner of the local municipality in which such land is situate. The Registrar shall not register any such plan or map unless and until a duplicate thereof is deposited in accordance with the provisions hereof. R. S. O. 1887, c. 152, s. 69, part; 56 V. c. 21, s. 104.

Delivery of plans to municipal treasurers.

Re-registration where Registry Books lost, etc.

113.—(1) In any case where the registry books and papers were before the 4th day of March, 1868, lost or destroyed, and the memorials are not forthcoming, upon proof being made to that effect before a Judge of any Court of Record in this Province to the satisfaction of the Judge as evidenced by a certificate under his hand, it shall be lawful for the Registrar for the Registry Division where the lands are situate to register the instrument upon production thereof, and no further proof shall be required by the Registrar than the original certificate of registration endorsed on such instrument; and any such instrument shall have priority according to the date of the original certificate.

Re-registration in case registry books or papers are lost or destroyed.

(2) The instrument shall be filed away by the Registrar and preserved with the records of his office, and in case memorials have not been copied into the registry books in their proper order, the Inspector may cause the same to be entered in proper books to be procured for the purpose, in the same manner as

provided in section 29 of this Act, and the Registrar shall be paid therefor in the same manner as under clause 9 of section 118 of this Act. 56 V. c. 21, s. 105.

Defects in Registration cured

Registration made before 4th March, 1868, not to be deemed void for certain defects.

114. No registration of any deed or other instrument made before the 4th day of March, 1868, shall be deemed or adjudged void by reason of the name or names, residence or residences, addition or additions of the witness or witnesses to the deed or instrument being improperly given or described in the registered memorial thereof, or being either in part or altogether omitted from such memorial, or by reason of any clerical error or omission of a formal or technical character therein; and all registrations before the said day effected in separate registry books of unincorporated villages are hereby confirmed, where the law has been otherwise complied with; and such separate registry books shall be taken and held to form part of the registry books of the municipality of which the unincorporated village forms a part; but such books shall not be further used. 56 V. c. 21, s. 106.

Registration in books for unincorporated villages.

Defective registrations before 29th March, 1873, not to be deemed void.

115. The registration of an instrument had before the 29th day of March, 1873, shall not be deemed void by reason of any defect in the proof for registration; but this section shall not apply to any matter or fact adjudged or decided upon before the said date by any Court of competent jurisdiction in that behalf. 56 V. c. 21, s. 107.

Registrations, etc., not to be deemed void by absence of certificates, etc., in margin of books.

116. No registration or entry made before the said last mentioned date shall be adjudged or held to be void by reason of the Registrar having failed or omitted to make or sign the certificate of entry, discharge or registration required to be made in the margin of, or elsewhere in, the registry books or other books of entries; and in case of such failure or omission, the certificate may be made or signed by any subsequent Registrar, and shall have the same force and effect as if it had been made or signed by the Registrar whose duty it was to have made or signed it. 56 V. c. 21, s. 108.

The case of part of a township made part of a new township without change of registry books.

117.—(1) In case a part or parts of any township or townships as originally laid out, surveyed and named, had before the said last mentioned date been made or erected into a new township, but nevertheless the registrations of instruments affecting or respecting land in said first mentioned township or townships, and the registry books and indexes therefor and relating thereto continued to be and were on the said date used, made, kept, entered and registered for and of said first mentioned township or townships and as if the same had continued to be as so originally laid out, surveyed and named, then and in every such case, and for and in respect of all matters and purposes of or relating to any such instrument either before or

after the said date and any and all such registrations, registry books and indexes, and the description therein of any land or premises, said first mentioned township or townships shall be deemed, considered and taken as if the same had continued to be and remained as so originally laid out, surveyed and named.

(2) Nothing in this section contained shall be deemed or Proviso. taken as relating to or affecting any incorporated town or village, or the land therein, or the registration of any instrument respecting the same, from or after the time of the incorporation of said town or village.

(3) Nothing in this section contained shall impair or make Proviso. defective any instrument or the registration thereof, because of any land being therein described or mentioned as situate in such new township. 56 V. c. 21, s. 109.

[As to list of Crown Grants being furnished to Registrar, see Cap. 28, sec. 39 and as to proceedings where land patented is in territory under The Land Titles Act, see Cap. 138, sec. 169.]

Fees of Registrars.

118. Every Registrar shall be allowed the following fees Fees. for the following services, and no more :

1. For the necessary entries and certificates in registering every instrument other than those hereinafter specially provided for, including among such certificates the certificate on the duplicate, if any, forty cents; and for registering every instrument other than those hereinafter specially provided for, \$1; For registrations general.

But in case the said instrument exceeds seven hundred words, then at the rate of fifteen cents for each additional one hundred words or the fractional part thereof, up to fourteen hundred words, and at the rate of ten cents for each additional hundred words or fractional part thereof over fourteen hundred ;

And if the said instrument embraces different lots or parcels of land, situate in different municipalities in the same county, the registration and copying of such instrument together with all necessary entries and certificates in connection therewith, shall be considered separate and distinct registrations for each municipality in which the land is situate, and shall be paid for as follows: Where the aggregate copying does not exceed seven hundred words, \$1.40; where the aggregate copying exceeds seven hundred words, the sum of fifteen cents for every hundred words or fractional part thereof up to fourteen hundred words, in addition to the said sum of \$1.40; and where the aggregate copying exceeds fourteen hundred words, the sum of ten cents for every hundred words or If the instrument includes different lots in different localities.

fractional part thereof in addition to the above charges; the said fees shall include all certificates and necessary entries but in case the said instrument embraces more than four different lots or parcels of land in the same municipality, the Registrar shall be allowed a fee of 5 cents for entering each lot or parcel in excess of four, but not to exceed \$5 for such entries; 56 V. c. 21, s. 111, (1).

For searches
as to title.

2. For searching the registry books and indexes relating to the title of any lot or part of a lot of land as originally patented by the Crown, or as afterwards subdivided into smaller lots, shewn by any registered map or plan thereof, when not exceeding four references, twenty-five cents, and five cents for every additional reference; but in no case shall a general search into the title to any particular lot, piece or parcel of land exceed the sum of \$2. "A reference" under this subsection shall mean a search of a copy of an instrument in the register, and if the abstract indexes only are examined, the total fee for searching any such lot or part of a lot including four references, shall be 25 cents. The word "lot" shall mean one parcel of land as originally patented by the Crown and where such parcel has been subdivided shall include any one of the lots in any such subdivision or re-subdivision, a plan of which has been registered. No person shall make copies of or extracts from any instruments, documents, books, papers or records in the Registry Office, or of any matter contained therein, to an extent in the aggregate exceeding 300 words for any one lot or part of a lot, except on payment (in addition to the fees for search) of 5 cents for each 100 words or fraction thereof in excess of said 300 words. Where subsequent to the registration of a mortgage the lands in such mortgage have been subdivided by a plan and searches are made for the purpose of ascertaining subsequent grantees or incumbrancers in sale, foreclosure or other proceedings under such mortgage, the person searching, on producing a statutory declaration that the searches are being made for the purposes aforesaid, shall be entitled to make such searches on all the lots in the subdivision on payment of a fee of ten cents for each lot, but so that the whole fee for searches shall not exceed \$2; 56 V. c. 21, s. 111 (2); 58 V. c. 22, s 7; 60 V. c. 14, s. 21.

Search to
ascertain
persons inter-
ested in lands
divided subse-
quently to
registration of
mortgage.

Searching
alphabetical
index.

General
search.

3. For searching, if specially required, the alphabetical index of names referred to in section 37 as to each name in the books of any one township, or other legally defined municipality in the county, twenty-five cents; but if a general search as to any such name is made throughout the county, the aggregate of fees for such search shall not exceed \$1; 56 V. c. 21, s. 111 (3).

4. For searching, if specially required, the general registry book for the whole county, referred to in section 29, as to each name in the said book the sum of twenty-five cents; 59 V. c. 29, s. 7.

5 For every abstract of title to any specific parcel of land certified by the Registrar containing such particulars as to any number of the registered instruments affecting such parcel of land as the party searching may require, twenty-five cents; and when such abstract exceeds one hundred words, fifteen cents for every additional hundred words; and for copies of instruments when required, ten cents for each hundred words; The fees for every abstract shall appear on the face thereof and shall show the items making up the amount of such fees. Where there are two or more lots for which abstracts are required and the entries on such lots are identical, the Registrar shall not be entitled to make an abstract for each lot separately, but the abstracts of title of such lots shall be included in one abstract, and the fees therefor shall be the same as if the abstract applied to one lot only, except that the Registrar shall be entitled in addition thereto to a fee of twenty-five cents as for a search on each lot after the first lot, and for the first lot he shall be entitled to the same fees as are now payable under this Act in respect of one lot;

Abstract
titles.

6. For each certificate furnished by the Registrar, except those made under clauses numbered 1 and 5 of this section, twenty-five cents;

Certificates.

7. For registration of any plan of town or village lots, including all necessary entries connected therewith, \$1; but in case the plan embraces more than 20 lots, the Registrar shall be allowed a fee of 5 cents for each lot in excess of 20, not to exceed in the whole \$5; 56 V. c. 21, s. 111 (4-6).

Plans.

8. For searches as to the names of registered owners and as to mortgagees under subsection 4 of section 102 of this Act, in connection with the registration of any plan, the sum of \$1; 59 V. c. 29, s. 8.

9. For furnishing the copies required under sections 32 and 35 of this Act, to be paid by the treasurer of the county to which any city, town, township, village or place belongs or is attached, the sum of 10 cents for every folio of one hundred words contained in the copies so made; and the county treasurer shall also pay such sum as the Inspector may order in writing, specifying the nature of the service under any section of this Act, for repairing any book, or copying, mounting, or binding plans, or for new plans and surveys, or for new abstract indexes, under the provisions of section 35 of this Act; and towns separated from counties for municipal purposes, and cities in which no separate Registry Office exists shall bear a ratable proportion of the expense thereof, based on the assessment of all the municipalities within the jurisdiction of the county; 56 V. c. 21, s. 111 (7); 59 V. c. 29, s. 9.

Statements
under sections
32 and 35.

10. For drawing each affidavit and swearing the deponent thereto, twenty-five cents; the same fee to be allowed for administering the oath when that only is required;

Affidavits.

Showing originals.

11. For exhibiting in the office each original registered instrument, including search for same, ten cents ;

Certificates of discharge of mortgage.

12. For registering each certificate of payment of mortgage money, and every other certificate excepting certificates provided for in the next succeeding clause, including all entries and certificates thereof, fifty cents ; but in case the said certificate affects more than four different lots or parcels of land, the Registrar shall be allowed a fee of five cents for each lot in excess of four, not to exceed in the whole \$2 for registration of such certificate ;

Certificate of discharge of lien.

13. The Registrar shall be entitled to charge for registering a certificate under section 85, including all entries in respect thereof, the same fees as are chargeable for registering a certificate of discharge of mortgage ;

Of payment of taxes.

14. For registering each certificate of payment of taxes, twenty-five cents ;

Figures.

15. In abstracts and certificates where figures are used instead of words to denote dates, numbers and quantities, the same shall be charged as if each number, though composed of several figures, were but one word. 56 V. c. 21, s. 111 (8-13).

Disputes as to fees.

119 When any dispute arises in regard to any question of fees under this Act, the Registrar shall forthwith submit the same to the Inspector, and shall thereupon notify the person interested or his agent of such submission, and the decision of the Inspector upon the question submitted shall be final, unless appealed from and varied upon appeal as hereinafter mentioned. All decisions given by the Inspector shall be in writing, and the appeal therefrom shall be in like manner, and subject to the same rules of practice as nearly as may be as an appeal from the Master in Chambers or a Local Master. 56 V. c. 21, s. 112.

Table of fees to be posted in Registrar's office.

120. Every Registrar shall keep posted up in some conspicuous place in his office a printed schedule of the fees and charges authorized under this Act. 56 V. c. 21, s. 113.

Registrar to give statement of fees payable in any matter.

121. Every Registrar shall upon request of the person for whom the service is performed, furnish a statement in detail of the fees charged by him in respect of any matter for which fees are payable under the provisions of this Act. 56 V. c. 21, s. 114.

Recovery of fees from municipal corporations.

122. Should the treasurer of any county or city in which a separate Registry Office is established, on the request of the Registrar for the duties performed according to this Act, refuse to pay the fees and allowances for any services required by this Act, the Registrar may prove and recover the same and the cost thereof from the corporation of the county or city in any Court of Record in Ontario ; and the Inspector's certi-

ificate of the amount and of the services rendered shall be *prima facie* evidence of the right to recover. 56 V. c. 21, s. 115. Evidence.

123. The Registrar shall not be compelled to register any instrument unless the fees authorized by this Act are first paid thereon. 56 V. c. 21; s. 116. Fees payable before registration.

124.—(1) Every Registrar shall keep a separate book in which he shall enter from day to day, all fees and emoluments received by him by virtue of his office, shewing separately the sums received for registering each instrument, and for searches, and for extracts or copies. Registrars to keep accounts of fees.

(2) Every Registrar shall make up to and including the 31st day of December of the previous year, a return under oath to the Lieutenant-Governor annually on or before the 15th day of January, and such return in addition to any other information which may be required in connection therewith, shall show : Registrar's annual returns.

1. Total number of instruments registered and fees therefor ;
2. Number uncopied and uncomparé ;
3. The number of patents registered and fees therefor ;
4. The number of deeds registered and fees therefor ;
5. The number of mortgages registered and fees therefor ;
6. The number of discharges of mortgages registered and fees therefor ;
7. The number of wills registered and fees therefor ;
8. The number of leases registered and fees therefor ;
9. The number of abstracts and fees therefor ;
10. The number of searches and fees therefor ;
11. The number of mechanics' liens and fees therefor ;
12. The number of all other instruments registered or filed and fees therefor ;
13. Amount received for work done for which county, city, or other municipality is liable ;
14. Amount received for other services not enumerated above ;
15. Fees earned and not received ;
16. Gross amount of fees earned for the year ;
17. Gross amount for the previous year ;
18. Amount paid to Deputy Registrar for services and amount of other charges in connection with the office paid by Registrar ;

19. Amount of surplus paid to the county or city for the year and when paid ;

20. Amount of such surplus for the previous year ;

21. Net amount received by Registrar.

(3) The return shall show the number of mortgages registered during the year classified as follows :—

Class 1—The number of mortgages where the consideration is nominal or the amount not specified.

Class 2—The number of mortgages where the consideration is \$1,000 or under.

Class 3—The number of mortgages where the consideration is over \$1,000 and not exceeding \$2,000.

Class 4—The number of mortgages where the consideration is over \$2,000 and not exceeding \$5,000.

Class 5—The number of mortgages where the consideration is over \$5,000.

The return shall also show the aggregate amount of such mortgages. 56 V. c. 21, s. 117 (1-3.)

Registrar to furnish clerk or assessment commissioner with list of conveyances.

125. The Registrar shall, upon request, furnish to the clerk or the assessment commissioner of a city, a list of all absolute conveyances whereby property has been transferred, which have been registered in his office during the next preceding month, and in such list shall include the names of the grantor, the grantee, the consideration shown in each transfer, and a short description of the land conveyed ; provided that such list shall not include leases for less than twenty-one years, mortgages, discharges of mortgage, or other like instruments, and that the Registrar shall be entitled to have and receive therefor a fee of five cents for every instrument included in the said list. 56 V. c. 21, s. 118.

Payments by Registrars on gross income.

126.—(1) Every Registrar shall be entitled to retain to his own use in each year all the fees and emoluments received by him in that year up to \$1,500.

(2) Of the fees and emoluments received by each Registrar, other than the Registrars for East and West Toronto, in each year, such Registrar, subject to the provisions of section 129 of this Act and of section 162 of *The Land Titles Act*, shall pay to the treasurer of the county or city for which or for part of which he is Registrar, the following percentages :—

(a) On the excess over \$2,500 and not exceeding \$3,000, ten per cent.

(b) On the excess over \$3,000 and not exceeding \$3,500, twenty per cent.

(c) On the excess over \$3,500 and not exceeding \$4,000, thirty per cent.

(d) On the excess over \$4,000 and not exceeding \$4,500, forty per cent.

(e) On the excess over \$4,500, fifty per cent.

(3) Of the net income of each year over \$1,500 every Registrar, other than the Registrars for East and West Toronto, shall, subject to section 129 of this Act and to section 162 of *The Land Titles Act*, further pay to the said treasurer for the use of the municipality, the following percentages, namely :—

Percentage of net income payable to municipality.
Rev. Stat. c. 138.

(a) On the excess over \$1,500, not exceeding \$2,000, ten per cent. thereof;

(b) On the excess over \$2,000, not exceeding \$2,500, twenty per cent. thereof;

(c) On the excess over \$2,500, not exceeding \$3,000, thirty per cent. thereof;

(d) On the excess over \$3,000, fifty per cent. thereof.

56 V. c. 21, s. 119; 57 V. c. 9, s. 1 (6, 7); 59 V. c. 29, ss. 11, 13.

127.—(1) The Registrars of East and West Toronto, subject to the provisions of section 162 of *The Land Titles Act*, shall each pay to the Treasurer of the City of Toronto of his net income of each year over the sum of \$1,500, the following percentages :—

Percentage payable out of net income of Toronto Registrars. ☒ Rev. Stat. c. 138.

(a) On the excess over \$1,500, not exceeding \$2,000, ten per cent. thereof;

(b) On the excess over \$2,000, not exceeding \$2,500, twenty per cent. thereof;

(c) On the excess over \$2,500, not exceeding \$3,000, thirty per cent. thereof;

(d) On the excess over 3,000, not exceeding \$6,000, fifty per cent. thereof;

(e) On the excess over \$6,000, ninety per cent. thereof.

(2) The expenses connected with the work of or in conducting the business of the offices of the Registrars of East and West Toronto, shall not be increased beyond those paid in the year 1895, without the consent of the Inspector in writing first had and obtained. 59 V. c. 29, s. 12.

128. For the purposes of this Act, “net income” shall mean the excess of all fees and emoluments, including receipts in the current year, whether on account of the earnings or

“Net income,” meaning of.

salary of such year or of any former year or years after the first day of January, 1893, by the Registrar, after deducting the disbursements incident to the business of his office and after payment to the municipality of the proportion of fees provided by subsection 2 of section 126 in cases coming within that subsection. 56 V. c. 21, s. 122.

Payment of
surplus fees.

Return.

129.—(1) On the fifteenth day of January in each year every Registrar shall transmit to the treasurer of the county or city for which, or for part of which, he is Registrar, a duplicate of the return required by this Act, and shall also pay to such treasurer for the uses of the municipality such proportion of the fees and emoluments received by him during the preceding year, as under this Act he is not entitled to retain to his own use.

(2) Where a Registry Division includes a county or part of a county, and a city or town separated from the county for municipal purposes, the amount aforesaid shall be paid to the treasurer of the county and to the treasurer of the city or town for the use of the municipality in the same proportions in which the gross fees and emoluments are derived from extracts, searches, registrations, and other charges in respect of lands situate in the county, and in respect of lands situate in the city or town. 56 V. c. 21, s. 120.

Adjustment
of percentage
payable
to municipal-
ity where
Registrar fills
the office for
part of year
only.

130.—(1) Every Registrar, or Deputy Registrar, acting as Registrar, who fills the office of Registrar and receives the fees and emoluments thereof for a part of any year shall, or in case of his death his executors or administrators shall, in respect of the fees and emoluments received by him during such part of a year pay a proportion thereof to the municipal treasurer for the uses of the municipality under sections 126, 127 and 129 hereof, such proportion of fees to correspond to the portion of the year during which he so filled the office and such proportion to be computed for such part of the year at the same rate as such Registrar or Deputy Registrar would have had to pay had he filled the office for the whole year and had he during that year received fees and emoluments and made disbursements incident to the business of his office for the whole of such year at the same rate as he received and made for the part of the year during which he filled the office.

(2) Every Registrar or Deputy Registrar in this section referred to shall, within fifteen days after the expiry of the part of the year for which he filled the office, and the executors or administrators of every deceased Registrar who filled the office for a part of any year and died in office, shall, within thirty days after the death of such Registrar or Deputy Registrar, make, up to and including the days of such expiry, a return under oath to the Lieutenant-Governor, and such return, in addition to any other information which may be required in connection therewith, shall show for the

said part of the year all the particulars required by subsection 2 of section 124 of this Act, and shall also, within the said period of fifteen days or of thirty days, as the case may be, transmit to the treasurer of the county or city for which, or for part of which, he so filled the office of Registrar, or Deputy Registrar, a duplicate of such return, and shall also pay to such treasurer for the uses of the municipality such proportion of the fees and emoluments received by him or by the deceased Registrar or Deputy Registrar, as the case may be, during the part of the year herein referred to as he is hereunder liable to pay to such municipality, and subsection 2 of section 129 of this Act shall apply to the proportion of fees in this section mentioned. 59 V. c. 29, s. 17.

131. In the fees and emoluments mentioned in sections 126, 127, 128, 129 and 130 of this Act, there shall not be included any sums receivable from the municipality for the preparation of abstract indexes, or for work done under section 32 or section 35 or subsection 5 of section 106 of this Act, nor shall anything in this Act contained be construed to apply to the fees or emoluments of any Registrar received on account of services as Returning Officer under the election Acts of the Province of Ontario or of Canada. 56 V. c. 21, s. 99 (5) part; ss. 124, 127.

Certain fees not to be included in payments to municipalities.

132. The council of every county, city or separated town may by by-law authorize the warden, mayor or treasurer to inspect the books of office kept in any registry division in the county or city, for the purpose of testing the accuracy of the returns or computations of fees received by the registrar to a share or percentage of which the county, city or town may be or may become entitled, and the registrar shall at all convenient times allow the said books to be inspected for such purpose free of charge. 60 V. c. 14, s. 17.

Inspection of registry books by municipal officers.

133. The disbursements of the Registrars shall be subject to the revision of the Inspector, and for the purposes of such revision the Inspector shall have power to take evidence and examine witnesses under oath. 56 V. c. 21, s. 126.

Disbursements subject to revision of Inspector.

134. The Lieutenant-Governor in Council may make rules and regulations for the management of the office of Registrar, and may, by such rules, confer on the Inspector such powers as may be deemed necessary for carrying out the provisions of this Act, and all other Acts relating to the duties of Registrars. All such rules and regulations shall be laid before the Legislative Assembly within the first ten days of the session after the making thereof. 56 V. c. 21, s. 125.

Lieutenant Governor may make rules and regulations.

INSPECTOR OF REGISTRY OFFICES.

135. The Lieutenant-Governor may, from time to time, appoint an Inspector of Registry Offices, whose duty shall be,

Appointment of Inspector, and his duties.

- Inspection of building. 1. To make a personal inspection of the building in which each office is kept, and of the books, deeds, memorials and other instruments in each Registry Office ;
- Books, etc. 2. To see that the proper books are provided, that they are in good order and condition, that the proper entries and registrations are made therein in a proper manner and in a due and proper form and order, that the indexes are properly kept, and that all the memorials and other instruments are duly endorsed and certified, and preserved ;
- Office hours. 3. To ascertain that the office is kept duly open at and for the proper times, and that it is at all times duly attended to by the Registrar or his Deputy ;
- Seals of office. 4. To settle on some uniform device for the official seals, and to see that the Registrars supply themselves therewith ;
- New indexes. 5. To inspect all new abstract and alphabetical indexes, and to settle and certify the sums, if any, chargeable therefor ;
- Plans. 6. To ascertain whether the proper plans required by this Act have been filed in the several Registry Offices, and where necessary, to enforce the provisions of the law in that respect, and he may instruct the County Crown Attorney to take the necessary proceedings for that purpose ;
- Reporting vacancies. 7. To report upon any vacancies by death or otherwise, in the offices of Registrar and Deputy Registrar ;
- Instruction of Registrar and his duties. 8. To inform the Registrar how and in what manner he shall do any particular act or amend or correct whatever he may find amiss ; and in case he finds the work improperly performed by any Registrar, he shall have power to order a new book or books to be prepared and completed by the Registrar at his own expense ;
- Sufficiency or insufficiency of sureties. 9. To ascertain the sufficiency or insufficiency of the sureties for the Registrar, and whether they are living or dead ; and
- Reporting to Lieutenant-Governor. 10 To report upon all such matters, as expeditiously as may be, to the Lieutenant-Governor for his information and decision. 56 V. c. 21, s. 128.
- Registrars to furnish information to inspector. **136.** The Registrars shall transmit to the Inspector of Registry Offices such particulars with reference to the business of their offices as the said Inspector may require. 56 V. c. 21, s. 129.
- Duty of Inspector on finding work in arrear. **137.** In the event of the work of any Registry Office being in arrear, and it appearing to the Inspector that no sufficient reason is given therefor, the Inspector shall employ such assistance as he deems necessary to perform the work so in arrear, and the cost of such assistance shall be payable by the Registrar to the parties entitled, on the certificate of the Inspector. 56 V. c. 21, s. 130.

138. A sum not exceeding \$2,000 per annum, and travelling and other expenses, necessarily incurred, shall be allowed to the Inspector of Registry Offices. 56 V. c. 21, s. 131; 59 V. c. 29, s. 10. Salary of Inspector.

SCHEDULE A.

(Section 13).

FORM OF COVENANT OF REGISTRAR.

Know all men by these presents, that we, *A. B.*, Registrar of Esquire, and *C. D.*, of Esquire, and *E. F.*, of Esquire, do hereby jointly and severally for our and each of our heirs, executors and administrators, covenant and promise, that the said *A. B.*, as Registrar of shall well, truly and faithfully perform the duties and obligations of his office as such Registrar, and that neither he nor his Deputy shall negligently or wilfully misconduct himself in his said office to the damage of any person or persons whomsoever; nevertheless, it is hereby declared that no greater sum shall be recovered under this covenant against the several parties hereto than the following, that is to say; against the said *A. B.*, in the whole, \$ [the amount fixed by Order in Council]; against the said *C. D.* and *E. F.*, \$ respectively [the amount fixed by Order in Council for each].

In Witness Whereof we have hereunto set our hands and seals this day of , A. D. 18 .

Signed, sealed and delivered in the presence of }

56 V. c. 21, Sched. A.

SCHEDULE B.

(Section 13.)

FORM OF AFFIDAVIT OF JUSTIFICATION.

County of } I, *A. B.*, of one of the sureties
To wit : } in the annexed covenant named, make oath and say as follows :

I am seised and possessed to my own use of real (or real and personal) estate in Ontario of the actual value of \$ over and above all charges upon, or incumbrances affecting the same.

2. (Where the party has real estate.) The said real estate consists of (describing the property.)

3. I am worth (the amount for which the party has become liable by the covenant) \$ over and above my just debts.

4. My post office address is as follows : (insert name of post office;)

Sworn before me at , in the }
County of , this }
day of , A. D. 18 . }

56 V. c. 21, Sched. B.

SCHEDULE C.

(Section 20)

FORM OF REGISTRAR'S OATH OF OFFICE.

ONTARIO.

County of) I (*name and describe deponent.*) having been appointed
 To wit :) by the Lieutenant-Governor to the office of Registrar, in and
) for the (*name of Registry Division, etc.*) do swear that I
) will well, truly and faithfully perform and execute all duties
 required of me, under the laws of this Province, pertaining to the said
 office, so long as I continue therein, and that I have not given directly or
 indirectly, nor authorized any person to give, any money gratuity or
 reward whatsoever for procuring the said office for me.

Sworn before us at
 the day of , A. D. 18 .

A. B., J. P., }
 C. D., J. P., } In and for the said County,

56 V. c. 21, *Sched. C.*

SCHEDULE D.

(Section 31.)

FORM OF CERTIFICATE RESPECTING REGISTRY BOOKS.

This register contains pages exclusive of index, and
 is to be used in and for the City (*or* Town, Incorporated Village or Town-
 ship) of , in the County of , for the
 enregistration of deeds, duplicates, and other instruments under the pro-
 visions of *The Registry Act*, and is provided in pursuance of the
 requirements of the said Act.

Dated this day of , A. D. 18 ,

A. B., Judge of the County Court of

or

A. B. Warden of the County of

56 V. c. 21, *Sched. D.*

SCHEDULE E.

(Section 36.)

FORM OF ABSTRACT INDEX.

Township of Yarmouth, Lot No. , in the 1st Concession.

1	2	3	4	5	6	7	8	9
No. of Instru- ment.	Instru- ment.	Its Date.	Date of Registry.	Grantor.	Grantee.	Quantity of Land.	Consideration in conveyance or amount of mort- gage money.	Remarks.
	Patent.	21st February, 1820		Crown	John Jones	All of said Lot.	\$300	
54.	P. & S.	10th January, 1835	11th January, 1835	David Brown and wife	George Smith, N. E.	N. E.	\$400	
72	P. & S.	30th May, 1830	15th May, 1838	John Jones and wife	David Brown, N. E.	N. E.	\$500	
40.	P. & S.	23rd June, 1840	23rd June, 1849	George Smith	Charles Gates, N. E.	N. E.	\$750	
461	M.	Do do	Do do	Charles Gates and wife	George Smith, N. E.	N. E.	\$500	
400	P. & S.	20th October, 1841	20th October, 1841	John Jones and wife	Charles Gates, N. E.	N. E.	\$240	
1000	D. M.	23rd June, 1842	1st July, 1842	George Smith	Charles Gates, N. E.	N. E.		Do of 161.
2560	P. & S.	25th April, 1855	1st of May, 1856	Charles Gates and wife	Alexander Fine, All.	All.	\$800	
2575	P. & S.	1st May, 1860	1st May, 1860	Alexander Erie	James Erie	E. E. of La N. E. 1st and ad. laves or N. E. 1st and affection.		

56 V. c. 21, Sched. E.

NOTE.—The names of all the grantors and grantees should appear in the abstract index.

SCHEDULE F.

(Section 37.)

FORM OF ALPHABETICAL INDEX.

No. of Instrument.	GRANTOR.	GRANTEE.	No. of Instrument.	GRANTEE.	GRANTOR.
	A.			A.	
1011.....	Abbott, George.....	Black, John.....	1029.....	Appleton, James.....	Buck, Peter.
1015.....	Allen, William.....	Cook, Edward.....	1039.....	Angus, Robert.....	Cooms, Joseph.
1017.....	Anderson, James.....	Smith, Thomas.....	1058.....	Anson, William.....	Whalks, Jane.
	B.			B.	
1004.....	Bernard, John.....	Green, Edward.....	1011.....	Black, John.....	Abbott, George.
1029.....	Burns, Robert.....	Cassels, George.....	1070.....	Benson, Jessie.....	Crooks, Nelson.
1029.....	Buck, Peter.....	Appleton, James.....	1098.....	Burrows, Joseph.....	Hinds, Henry.
	C.			C.	
1039.....	Cooms, Joseph.....	Angus, Robert.....	1015.....	Cook, Edward.....	Allen, William.
1048.....	Coffee, Richard.....	Ingram, Benjamin.....	1020.....	Cassels, George.....	Burns, Robert.
1070.....	Crooks, Nelson.....	Benson, Jessie.....	1118.....	Castor, Simeon.....	Philip, Richard.

56 V. c. 21, Sched. F.

SCHEDULE G.

(Section 40.)

FORM OF AFFIDAVIT OF EXECUTION.

County of _____ } I, _____, of _____, of
 To Wit : } the _____ of _____ in the
 and say : } County of _____, make oath

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, *if any, according to the fact*) duly signed, sealed and executed by _____ and the parties thereto.

2. That the said instrument (and duplicate, *if any, according to the fact*) were executed at the _____ of _____

3. That I know the said parties (or one or more of them, according to the fact).

4. That I am a subscribing witness to the said instrument (and duplicate, *according to the fact*.)

56 V. c. 21, Sched. G.

SCHEDULE H.

(Section 43.)

AFFIDAVIT OF EXECUTION WHERE THE INSTRUMENT IS A SECURITY BUT DOES NOT CONVEY THE LAND.

County of _____ } I, A. B., of the _____ in the County
 To Wit : } of _____ (addition), make oath and say :

1. That I was personally present and did see the annexed (or within) instrument (and a duplicate, *if any, according to the fact*), duly signed, sealed and executed by _____ and the parties thereto.

2. That the said instrument was read over in my presence and explained to the said _____, and that he appeared perfectly to understand the same, and was informed that it might be registered as an incumbrance on his lands.

3. That the said instrument (and duplicate, *if any, according to the fact*) was (or were) executed at the _____ of _____

4. That I know the said parties (or one or more of them, according to the fact).

5. That I am a subscribing witness to the said instrument (and duplicate, *according to the fact*.)

56 V. c. 21, Sched. H.

SCHEDULE I.

(Section 50.)

CERTIFICATE OF COUNTY JUDGE IN LIEU OF AFFIDAVIT OF EXECUTION.

ONTARIO.

County of _____, I,
 _____, Judge of the County Court of the County of _____,
 To Wit: _____, certify that, from the proof adduced by
 _____, *(name the person producing the proof, and state the*
evidence given), I am satisfied of the due execution of the within instru-
 ment *(or of the instrument whereof the within is a copy, memorial or*
duplicate, as the case may be).

As witness my hand at
day of

A.D. 18 . the

A. B.,

Judge of the County Court of

56 V. c. 21, *Sched. I.*

SCHEDULE J.

(Section 63.)

FORM OF CERTIFICATE OF REGISTRATION.

I certify that the within _____ is duly entered and
registered in the Registry Office for the _____ of the County
of _____ in Book _____ for the _____ of
at _____ o'clock _____ of the _____ day of _____
A.D. 18 _____

Number _____

Registrar.
or Deputy Registrar.

56 V. c. 21, *Sched. J.*

SCHEDULE K.

(Section 67.)

FORM OF MINUTE OF REGISTRATION.

Entered and registered this _____ day of _____
A.D. _____ at _____ o'clock.

56 V. c. 21, *Sched.* K.

SCHEDULE L.

(Section 76.)

FORM OF DISCHARGE OF MORTGAGE.

To the Registrar of the County of _____
 I, _____, of _____, do certify that _____ has satisfied all money due on, or to grow due on (or has satisfied the sum of \$ _____ mentioned in), a certain mortgage made by _____ of _____ to _____ which mortgage bears date the _____ day of _____ A.D. 18 _____, and was registered in the Registry Office for the County of _____ on the _____ day of _____, A.D. 18 _____, at _____ minutes past _____ o'clock, _____ noon, in Liber _____ for _____ as No. _____ (here mention the day and date of registration of each assignment thereof, and the names of the parties, or mention that such mortgage has not been assigned, as the fact may be), and that I am the person entitled by law to receive the money, and that such mortgage (or such sum of money as aforesaid, or such part of the lands as is herein particularly described, that is to say : _____) is therefore discharged.

Witness my hand this _____ day of _____ A.D. 18 _____
 A. B.

One Witness. _____
 {
 }

56 V. c. 21, Sched. L

SCHEDULE M.

(Section 83.)

FORM OF CERTIFICATE OF DISCHARGE OF MORTGAGE BY SHERIFF, ETC.

To the Registrar of the County (Division or City, as the case may be) of _____

I, A. B., of _____ Sheriff of the County of _____
 [or Bailiff of the (number) Division Court of the County (or City, as the case may be) of _____] do certify that by virtue of a writ of execution wherein C. D. is plaintiff and E. F. defendant, issued out of Her Majesty's High Court of Justice (or as the case may be) and to me directed, I seized a certain mortgage made by one J. H. of (as described in said mortgage) bearing date the _____ day of _____ A.D. 18 _____ and registered at _____ of the clock in the forenoon, Liber _____, for _____ No. _____ (as the case may be) of the _____ day of _____ in the same year (as the case may be) to E. F., of _____ (as described in the mortgage), the defendant in the said writ of execution named, and such mortgage has not been assigned (or has been assigned to the defendant and such assignment has been registered as follows : here set out date and registration of assignment) and I do further certify that I have levied from the said mortgagor, his executors, administrators or assigns (as the case may be) the full amount of said mortgage (or \$ _____ parcel of said mortgage), and that such mortgage is therefore discharged (or that such mortgage is as to \$ _____ parcel of the moneys thereby payable, discharged.)

As witness my hand and seal of office (or the seal of the said Court) this _____ day of _____ A.D. 18 _____

Witness,
 L. M.

Signed, _____ A. B.

56 V. c. 21, Sched. M.

SCHEDULE N.

(Section 85.)

CERTIFICATE OF DISCHARGE OF INSTRUMENT CREATING A CHARGE.

To the Registrar of the County of

County of } I, of the in the County
To Wit: { of (addition), do hereby certify
that of , in the County of (addi-
tion) , has satisfied all money due or to grow due on (or has satisfied
the sum of \$ mentioned in) a certain instrument made
by of to , which instrument bears date the
day of A.D. 18 , and was registered in the Registry
Office for the County of on day of A.D.
18 , at minutes past o'clock noon, in Liber for
as No. (here mention the day and date of registration of each
assignment thereof, and the names of the parties, or mention that such
instrument has not been assigned, as the fact may be), and that I am the
person entitled by law to receive the money, and that such instrument (or
such sum of money as aforesaid, or such part of the lands as is herein
particularly described, that is to say:) is therefore discharged.

Witness my hand this day of A.D. 18 .

One Witness } A. B.

56 V. c. 21, *Sched. N*

SCHEDULE O.

(Section 100.)

FORM OF SURVEYOR'S CERTIFICATE OF PLAN.

I hereby certify that this plan accurately shews the manner in which the land included therein has been surveyed and subdivided by me ; and that the said plan is prepared in accordance with the provisions of *The Registry Act*.

Dated 18 *A. B.*
Provincial Land Surveyor.

56 V. c. 21, *Sched. O.*

SCHEDULE P.

(Section 108.)

AFFIDAVIT WHERE INSTRUMENT DOES NOT CONFORM TO PLAN.

County of _____ } I (give name, address and occupation.)
To Wit : } make oath and say

1. To the best of my knowledge and belief, the lands described in the within (or annexed) instrument and duplicate are designated on Registered Plan No. _____ as lots (describe same so as to conform to plan).

2. That a party to said instrument died on or about the day of A.D. (or as the case may be).

3. That it would be impossible (or inconvenient) for the reason aforesaid to obtain a new instrument or a re-execution of the said instrument containing a description conforming to the said plan.

4. That I have a personal knowledge of the matters herein deposed to.

Sworn, etc.

57 V. c. 35, s. 3, part.

SCHEDULE Q.

LIST OF REGISTRY DIVISIONS.

(Section 3.)

Part I.

The undermentioned TERRITORIAL DIVISIONS, as set forth in Chapter 3 of the Revised Statutes of Ontario, 1897 (except as otherwise mentioned), constitute separate registry divisions:—

The Counties of—

- | | |
|---|---------------------------|
| 1. Brant. | 17. Leeds. |
| 2. Bruce. | 18. Lennox and Addington. |
| 3. Carleton, excepting the City of Ottawa. | 19. Lincoln. |
| 4. Dufferin. | 20. Norfolk. |
| 5. Dundas. | 21. Ontario. |
| 6. Elgin. | 22. Oxford. |
| 7. Essex. | 23. Peel. |
| 8. Frontenac, excepting the City of Kingston. | 24. Peterborough. |
| 9. Glengarry. | 25. Prescott. |
| 10. Grenville. | 26. Prince Edward. |
| 11. Haldimand. | 27. Renfrew. |
| 12. Halton. | 28. Russell. |
| 13. Hastings. | 29. Simcoe. |
| 14. Huron. | 30. Stormont. |
| 15. Kent. | 31. Victoria. |
| 16. Lambton. | 32. Waterloo. |
| | 33. Welland. |
| | 34. Wentworth |

The Cities of—

- | | |
|---------------|-------------|
| 35. Kingston. | 37. Ottawa. |
| 36. London. | |

The Provisional County of—

38. Haliburton ; and

The Districts of—

- | | |
|-----------------|----------------------|
| 39. Algoma. | 43. Parry Sound. |
| 40. Manitoulin. | 44. Rainy River, and |
| 41. Muskoka. | 45. Thunder Bay. |
| 42. Nipissing. | |

Part 2.

The undermentioned ELECTORAL DISTRICTS, as set forth in Chapter 6 of the Revised Statutes of Ontario, 1897 (except as otherwise mentioned), constitute separate registry divisions :—

- | | |
|-----------------------------------|------------------------------------|
| 46. Durham, East Riding. | 52. Northumberland, West Riding, |
| 47. Durham, West Riding. | and the township of West |
| 48. Lanark, North Riding, except- | Monaghan. |
| ing Carleton Place. | 53. Perth, North Riding, and the |
| 49. Lanark, South Riding, and | township of Logan. |
| Carleton Place. | 54. Perth, South Riding, excepting |
| 50. Middlesex, West Riding. | the township of Logan. |
| 51. Northumberland, East Riding. | 55. York, North Riding. |
56. The East and North Ridings of Middlesex constitute one registry division ; and
57. The East and West Ridings of York constitute one registry division.

Part 3.

The undermentioned registry divisions are constituted as hereinafter set forth :—

58. East Toronto consists of all that part of the City of Toronto lying east of Spadina Avenue and Spadina Road, continued south and north to the boundaries of the city, the land on Spadina Avenue now occupied by Knox College, and the Islands constituting the southerly part of the said city.
59. West Toronto consists of all that part of the said city lying west of Spadina Avenue and Spadina Road, continued as aforesaid to the boundaries of the city.
60. Grey, North Riding, consists of the townships of Collingwood, Derby, Euphrasia, Holland, Keppel, St. Vincent, Sarawak, Sullivan and Sydenham, and the towns of Meaford, Owen Sound and Thornbury.
61. Grey, South Riding, consists of the townships of Artemesia, Bentinck, Egremont, Glenelg, Normanby, Osprey and Proton, the town of Durham, and the incorporated villages of Dundalk and Markdale.
62. Wellington, North Riding, consists of the townships of Arthur, Minto, Maryborough, Peel and West Luther; the towns of Harriston, Mount Forest and Palmerston, and the incorporated villages of Arthur, Clifford and Drayton.
63. Wellington, South and Centre Ridings, consists of the townships of Guelph, Eramosa, Erin, Nichol, Pilkington, West Garafraxa and Puslinch; the city of Guelph, and the incorporated villages of Elora, Fergus and Erin.

NOTE.—The townships hereinbefore mentioned include all towns and incorporated villages situated within the limits thereof respectively.

CHAPTER 137.

An Act respecting the Custody of Documents relating to Titles to Land.

SHORT TITLE, s. 1.	DEPOSIT OF RECEIPTS, s. 9.
INTERPRETATION, s. 2.	INSPECTION OF DOCUMENTS, s. 10.
DEPOSIT OF DOCUMENTS, ss. 3, 4, 9.	EFFECT OF DEPOSIT, ss. 11, 12.
DOCUMENTS TO BE NUMBERED AND INDEXED, s. 5.	REGISTRAR TO KEEP SAFELY, s. 13.
NOTICE OF DEPOSIT, s. 6.	EXPENSES OF EXECUTORS, s. 14.
REGISTRAR'S FEES, ss. 7, 8.	REMOVAL OF DOCUMENTS FROM CUSTODY OF REGISTRAR, ss. 15, 16.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Custody of Title Deeds* Short title. Act." R. S. O. 1887, c. 115, s. 1.

2. The word "document," herein, shall include what- ever is included in the word "instrument," as defined by *The Registry Act*, and also any certificate, affidavit, statutory declaration, or other proof as to the birth, baptism, marriage, divorce, death, burial, descendants, or pedigree of any person, or as to the existence or non-existence, happening or non-happening of any fact, event or occurrence upon which the title to land may depend, and notices of sale, or other notices necessary to the exercise of any power of sale or appointment or other powers relating to lands. R. S. O. 1887, c. 115, s. 2.

3. Any person having any document, forming or being a title-deed or evidence or muniment of title to land in this Province may deposit the same for safe custody in the office of the registrar of any registry division in which the document or a duplicate or copy or memorial or certificate thereof has been registered; or in case it does not appear by any endorsement thereon, that the same or a duplicate or copy or memorial or certificate thereof has been registered in any registry office in Ontario, the document may be so deposited in the office of the registrar of any registry division in which any land to which the same relates is situate. R. S. O. 1887, c. 115, s. 3.

Interpreta-
tion.
"Document."
"Instrument."
Rev. Stat.
c. 136.

Person having
custody of
deeds, etc.,
may deposit
them in regis-
try office.

Requisition to be filed and receipt given.

4. Upon every such deposit, the person depositing shall deliver to the registrar a requisition in duplicate in the Form A in the Schedule hereto; which requisition may include any number of documents; and the registrar shall sign a receipt upon one of the duplicates for the instruments or documents therein mentioned, and shall deliver the receipt to the person by whom the deposit is made. R. S. O. 1887, c. 115, s. 4.

Each document to be numbered and entered in deposit index and filed.

5.—(1) Upon receiving the requisition and the documents therein mentioned, the registrar shall enter every document in consecutive order in a book to be kept by him for that purpose, to be called the "Deposit Index" (which may be in the Form B in the Schedule hereto), and shall therein number all deposited documents consecutively, and shall endorse on every such document the word "deposited," with the date of deposit and the number of the entry thereof in the deposit index; and shall file the same in consecutive order according to its number; and shall also endorse on the requisition the numbers so by him placed on the documents therein mentioned; and shall file all the requisitions in consecutive order according to such numbers.

Names to be entered in alphabetical Index.

(2) The registrar shall also enter in an alphabetical index to be kept by him for that purpose (and which shall be called the "Alphabetical Deposit Index,") the number of the document in the deposit index, and the name of every party to the document, or to the action, suit or proceeding to which the document relates, or if the same is a certificate or an affidavit, or a statutory declaration or other proof, as to the birth, baptism, marriage, divorce, death or burial of any person, then the name of such person.

Entry opposite registered instruments.

(3) In case it appears by any certificate of registration endorsed on the document, that the same or a duplicate or a copy or memorial or certificate thereof is registered in his registry office, the registrar shall also enter in the margin of every registry book wherein the same is registered opposite the entry thereof, the words, "See deposit index No. A. D. " referring to the number of the instrument in the deposit index, and the date of the deposit. R. S. O. 1887, c. 115, s. 5.

Notice to be sent to other registry offices where an instrument has been registered.

6.—(1) In case it appears by any certificate of registration endorsed on the document that the same or a duplicate or copy or memorial or certificate thereof is registered in any other registry division, the registrar with whom the same is so deposited shall, within ten days after the deposit send by post to such other registrar a notice thereof in duplicate, in the Form C hereto.

(2) On receipt of the notice the registrar receiving the same shall enter in the margin of every registry book wherein the same appears to have been registered, opposite the entry there-

of, the words, "See deposit index in Registry Office, No. A. D. "referring to the registry office from which the notice is received, and the number and date of the deposit therein, and he shall forthwith send by post an acknowledgment of the receipt of the notice written upon one of the duplicate notices.

(3) In case such an acknowledgment is not received within fourteen days from the sending of the notice, the registrar sending the notice shall send another like notice, and shall repeat the same every fourteen days till the acknowledgment is received.

(4) Every such notice and acknowledgment shall be post paid and registered, and a sufficient sum to pay the registrar's fees and the postage and post registration on the acknowledgment thereof shall be sent with the notice.

(5) All notices received from other registrars shall be filed by the registrar receiving the same in the order in which they are received, and all such acknowledgments shall be filed by the registrar receiving the same in the order of the receipt thereof. R. S. O. 1887, c. 115, s. 6.

7. The registrar with whom the deposit is made, shall be entitled to the following fees to be paid at the time of the deposit by the person depositing the same, that is to say:—

On every requisition.....	20 cents.
On every document deposited therewith	10 "
For every notice necessary to be sent to other registrars, (not more than one notice to any one registrar to be charged for)	15 "
Necessary postage and post registration fee on the notices and acknowledgements thereof....	

R. S. O. 1887, c. 115, s. 7.

8. The registrar to whom any notice under section 6 of this Act is sent, shall be entitled to a fee of twenty cents for every document, in respect of which he is to make the entries aforesaid. R. S. O. 1887, c. 115, s. 8.

9. —(1) A receipt for payment of money made on any registered mortgage, bond, agreement, lease or any other registered instrument, may be deposited in the registry office in which the original instrument is registered, but it shall not be necessary to deliver any requisition with the receipt, or to pay any fee for depositing the same or the entries in respect thereof, except the sum of twenty cents. 53 V. c. 31, s. 1.

(2) The registrar shall receive and file in numerical order all receipts tendered for filing under this section, and shall endorse

Registrar's fees.

Fees to other registrars.

Deposit of receipts.

Registrar to receive and enter.

thereon the number, the date of filing, and the amount contained in the receipt, and shall write in the margin of the registry book wherein the instrument to which the receipt relates has been registered the words "See receipt No. . . ." 53 V. c. 31, s. 2.

Deposited documents open to inspection.

Rev. Stat. c. 136.

10. Any person shall be entitled to inspect and make or obtain copies of, or extracts from, any document deposited under this Act in like manner as in the case of instruments registered under the provisions of *The Registry Act*; and the registrar shall be entitled to the same fees in respect thereof, as in the case of registered instruments. R. S. O. 1887, c. 115, s. 9.

Deposit not registration and not to affect document as evidence.
Rev. Stat. c. 136.

11. The deposit of any document under this Act, shall not be deemed a registration thereof within the meaning of *The Registry Act*; nor shall the admissibility or value of any document as evidence, be deemed to be improved or affected by the deposit. R. S. O. 1887, c. 115, s. 10.

Deposit relieves from liability.

12. The deposit of a document under the provisions of this Act, shall, while the same continues so deposited, be deemed a sufficient compliance with, and fulfilment of, any covenant or agreement theretofore entered into by any person, to produce or allow the inspection of the document, or the making of any copy of or extract from the same, and shall absolve any person liable for the production or custody thereof from any further liability in respect of such custody or production. R. S. O. 1887, c. 115, s. 11.

Registrar to keep safely.

Rev. Stat. c. 136.

13. The registrar with whom a document is so deposited shall keep the same safely in his office, in like manner and with the same care as the instruments registered in his office; and he and his sureties shall be responsible in respect thereof, in like manner as in respect of instruments registered under *The Registry Act*; and the registrar shall not part with the possession of any such document, unless in accordance with the order of a Court or Judge as hereinafter provided. R. S. O. 1887, c. 115, s. 12.

Expenses of executors, etc.

14. An executor or administrator of the estate of a deceased person, and a trustee of a trust estate, may reimburse himself out of such estate any expense which he incurs in or about depositing any documents which may come to his possession or control as such executor, administrator or trustee. R. S. O. 1887, c. 115, s. 13.

Application within 5 years to remove custody.

15.—(1) At any time within five years after the deposit of a document under the provisions hereof, any person may apply to the High Court of Justice, or to the County Court of the county

in which the deposit is made, or to a Judge of either of the said Courts, for the delivery of the document to such person, and the Court or Judge may direct that the same shall be delivered up by the registrar to the applicant, or to any person the Court or Judge directs, upon being satisfied that the applicant would, but for the deposit, be solely entitled to the possession of the document, and that the deposit thereof was made without his consent, or the consent of any person entitled at the time of the deposit to any interest therein, and (in case the document relates to other lands than those in which the applicant is interested) that there are reasonably important grounds for removing the document from the custody of the registrar.

(2) Before making the order, the Court or Judge may require ^{Notice of} such notice of the application, by advertisement or otherwise, ^{application.} to be given to the person by whom the deposit was made, or to any other person, as to the Court or Judge shall seem meet, or may dispense with any such notice.

(3) The order may direct that all or any part of the costs of ^{Costs.} the application, or of opposing the same, or in relation thereto, be paid by the person by whom the deposit was made, or by the person by whom the application is made, or by any person to whom notice of the application has been given and may make such order in respect of the costs of the applicant, and of the persons who have been notified, or who may oppose the application, as to the Court or Judge seems proper.
R. S. O. 1887, c. 115, s. 14.

16.—(1) Upon the delivery to the Registrar of the order, or a ^{Delivery} duplicate thereof, within six months after the date thereof, ^{under order.} and upon payment to him of the sum of fifty cents, he shall deliver to the person mentioned therein the documents therein directed to be given to him, taking his receipt, or the receipt of his authorized agent therefor.

(2) The Registrar shall thereupon make an entry in the ^{Registration} deposit index, opposite the entry of the document, specifying ^{of order.} the date of such delivery, and to whom delivered, the Court or Judge by whom the order was made, and the date of the order, and shall file the order among the requisitions for deposit in the order of the date of receipt thereof. R. S. O. 1887, c. 115, s. 15.

SCHEDULE.

FORM A.

(Section 4.)

REQUISITION.

To the Registrar of the

of

I (*or we*) hereby deposit with you and require you to take into your custody, pursuant to *The Custody of Title Deeds Act*, Chapter 137 of the Revised Statutes of Ontario, 1897, the following instruments and documents, viz. :—

Description of instrument or document.	Names of all parties.	Any other particulars or subject of certificate, affidavit, etc.	Lands in this registry division to which documents relate.	Particulars of registration of registered instruments.			
				Registry division.	Date.	No.	Township, city, town, etc.

Dated

(in duplicate)

Signed in presence of me, to whom the depositor, and his residence and occupation are well known. }

Signature.

*Residence, giving Lot, Con.
or House No. and Street.*

(Occupation)

A. B.,

J. P. or Notary Public, or
Mayor or Reeve, or Solicitor of Supreme
Court, or Barrister.

The documents above mentioned, with a duplicate of above requisition, are this day received by me.

Dated

C. D.,
Registrar for

R. S. O. 1887, c. 115, Sched. Form A.

FORM B.

(Section 5.)

DEPOSIT INDEX.

Deposit No.	Description of instrument.	Parties.	Lands in this registry division mentioned.	Any other particulars or subject of certificates, affidavits, etc.	Particulars of registration certificate endorsed.	Date of deposit.	By whom deposited.

R. S. O. 1887, c. 115, Sched. Form B.

FORM C.

(Section 6.)

NOTICE OF DEPOSIT.

To the Registrar of

The following instruments, of which the originals, or a duplicate, or memorial, or copy, or certificate, appear to be registered in your registry office, have been deposited in this registry office under *The Custody of Title Deeds Act*.

Deposit Index No.	Date of deposit.	Description of instrument.	Parties.	Particulars of registration in your registry division.		
				Registration No.	Date of registration.	Township, city, town, etc.
2146	8th Aug., 1887.	Mortgage.	John Smith to Wm. Jones.			

You are required to enter such deposit, and to acknowledge receipt hereof, under above Act. Enclosed is _____ cents.

Dated at)

Registry Office for)

Registrar.

FORM OF ACKNOWLEDGMENT TO BE PUT ON DUPLICATE NOTICE.

The duplicate of above notice of deposit of (*three*) documents received at the registry office for this _____ day of A.D. 18____, and entry of such deposit has been made in accordance with *The Custody of Title Deeds Act*.

Registrar.

R. S. O. 1887, c. 115, Sched. Form C.

CHAPTER 138.

An Act to simplify Titles and to facilitate the
Transfer of Land.

-
- SHORT TITLE, s. 1.
 APPLICATION OF ACT, ETC., s. 2.
 INTERPRETATION, s. 3.
 LAND REGISTRY IN COUNTY OF YORK, s. 4.
 FIRST REGISTRATION OF LAND, ss. 5-18.
 Caution against, ss. 85-88.
 LEASEHOLD LAND, ss. 19-24.
 FIRST REGISTRATION, HOW EFFECTED, s. 25.
 Liability to easements and other rights, ss. 26-28.
 Incumbrance existing at first registration, ss. 29-31.
 No acquisition of title by adverse possession, s. 32.
 TRANSFER AND MORTGAGE OF REGISTERED LAND, ss. 33-68.
 Mortgage of registered land, ss. 33-40.
 Transfer of land, ss. 41-48.
 Claims for dower, ss. 49, 50.
 Transfer of leaseholds, ss. 51-56.
 Transfer of charges, s. 57.
 Time of registration, s. 58.
 Transmission of land and charges on death of owner, ss. 59-63.
 Execution and sales under, ss. 64-67.
 Sales for taxes, s. 68.
 MECHANICS' LIENS, s. 69.
 OTHER DEALINGS WITH REGISTERED LAND, ss. 70-83.
 Registered owner only may make registered disposition, s. 70.
 Right to registration, s. 71.
 Notices of leases, ss. 72, 73.
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 Power of registered owner to impose restrictions, ss. 82, 83.
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 INSPECTOR OF LAND TITLES' OFFICES,
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 FORMS, p. 1410.
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HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

PRELIMINARY.

1. This Act may be cited as "*The Land Titles Act.*" R. S. O. Short title. 1887, c. 116, s. 1.

2. This Act shall, subject to section 161, apply to the County of York, including the City of Toronto, to the County of Elgin, including the City of St. Thomas, to the County of Ontario, and to the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay and Rainy River, only, and the Land Registries heretofore established for the said counties and districts are hereby continued. R. S. O. 1887, c. 116, s. 2, s. 4, part; 51 V. c. 14, s. 9; 56 V. c. 23, s. 1; Procl. of 15th July, 1892; Procl. of 26th March, 1896.

3. When the words following occur in this Act they shall be construed in the manner hereinafter mentioned unless a contrary intention appears. Interpretation.

"Court" shall mean the High Court of Justice; and any jurisdiction of the court under this Act may be exercised by any judge of the said court; and may be exercised by him whether sitting in open court or in chambers. "Court."

"Owner" shall mean owner in fee simple; "Transfer" shall include the whole estate and interest of the transferor. "Owner."

"Person" shall include a corporation or any body of persons unincorporate. "Person."

"General Rules" or "Rules" shall mean the Rules in the Schedule hereto or General Rules made in pursuance of this Act. "General Rules."

"Prescribed" means prescribed by this Act or by any general rules made in pursuance of this Act. "Prescribed."

"Registered" means registered under this Act.

"Registered."

"Sworn Valuator" means a person appointed by the Master of Titles, with the approval of the Lieutenant-Governor in Council, to value land under this Act. R. S. O. 1887, c. 116, s. 3.

"Sworn Valuator."

PART I.

ENTRY OF LAND ON REGISTER OF TITLE.

4. The Land Registry for the County of York shall be conducted by an officer to be called the Master of Titles, who shall be a barrister of not less than ten years' standing at the Bar of Ontario, and shall be appointed by the Lieutenant-Governor by commission under the Great Seal of the Province. R. S. O. 1887, c. 116, s. 4, part. Land registry for County of York to be conducted by Master of Titles. Imp. 38 & 39 V. c. 87, ss. 5, 106.

5. Any person entitled for his own benefit at law or in equity to an estate in fee simple in land, whether subject or not to incumbrances, or any person capable of disposing for his own benefit by way of sale of an estate in fee simple in land, whether subject or not to incumbrances, may apply to the Master of Titles to be registered under this Act, or to have registered in his stead any nominee or nominees, as owner or owners of such land, with an Application for registration with absolute or possessory title. Imp. 38 & 39 V. c. 87, s. 5.

Absolute, Qualified or Possessory title, as the case may be. R. S. O. 1887, c. 116, s. 5.

Application
by purchaser.
Imp. 38 & 39
V. c. 87, s. 5.

6. Any person who has contracted to buy for his own benefit an estate in fee simple in land, whether subject or not to incumbrances, may also apply as aforesaid, provided the vendor consents to the application. R. S. O. 1887, c. 116, s. 6.

Application
by Crown.
Imp. 38 & 39
V. c. 87, s. 65.

7. Her Majesty's Attorney-General for Canada, or Her Majesty's Attorney-General for Ontario, may apply in like manner in respect to the title of the Crown to any land; and the practice and procedure upon the application shall be the same as in ordinary cases. R. S. O. 1887, c. 116, s. 7.

Trustees and Mortgagees.

Trustees, etc.,
may sell by
medium of
registry, or
may be them-
selves regis-
tered.
Imp. 38 & 39
V. c. 87, s. 68

8.—(1) Any person holding land on trust for sale, and any trustee, mortgagee, or other person having a power of selling land, may authorize the purchaser to make an application to be registered as first owner with any title which an owner is authorized to be registered with under this Act, and may consent to the performance of the contract being conditional on his being so registered; or any of such persons, except a mortgagee, may himself apply to be registered as such owner with the consent of the persons (if any) whose consent is required to the exercise by the applicant of his trust or power of sale.

(2) A mortgagee having a power of selling land as aforesaid, may apply to have the mortgagor or other person owning the equity of redemption registered as owner with any title as aforesaid.

(3) The amount of all costs, charges, and expenses properly incurred by such person, in or about the application, shall be ascertained and declared by the Master of Titles, and shall be deemed to be costs, charges, and expenses properly incurred by such person in the execution of his trust or in pursuance of his power; and such person may retain or reimburse the same to himself out of any money coming to him under the trust or power, and he shall not be liable to any account in equity in respect thereof. R. S. O. 1887, c. 116, s. 8.

Part Owners.

Registration
of part owners.
Imp. 38 & 39
V. c. 87, s. 69.

9. Any two or more persons entitled for their own benefit concurrently or successively, or partly in one mode and partly in another, to such estates, rights, or interests in land as together make up such an estate as would, if vested in one person, entitle him to be registered as owner of the land, may (subject as in this Act mentioned with respect to the number of persons to be registered in respect of the same land) apply to the Master of Titles to be registered as joint owners, in the same manner and with the same incidents, so far as circumstances admit, in and with which it is in this Act declared that any individual owner may be registered. R. S. O. 1887, c. 116, s. 9.

10. Where several persons are registered as owners under section 9, the entry may, if the parties so desire, define the estates, rights and interests, other than trust estates, rights and interests, to which the owners are respectively entitled. 53 V. c. 32, s. 3.

Entry on
registration
of part
owners.

11. Persons entitled to several estates under section 9, or owners who are tenants in common or joint tenants, shall be entitled to take out one certificate in respect of the whole estate, or each person may, when the extent of his interest is defined, take out a certificate in respect of his own estate; but in case a certificate for the whole is outstanding no separate certificate shall be issued till the outstanding certificate is returned and cancelled. 53 V. c. 32, s. 4.

What certi-
cate part
owners may
take out.

12. Where an absolute title is required, the applicant or his nominee shall not be registered as owner of the fee simple until and unless the title is approved by the Master of Titles. R. S. O. 1887, c. 116, s. 10.

Evidence
where absolute
title required.
Imp. 38 & 39
V. c. 87, s. 6.

13. The first registration of any person as owner of land (in this Act referred to as first registered owner) with an absolute title, shall vest in the person so registered an estate in fee simple in such land, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject as follows:

Estate of first
registered
owner with
absolute title.
Imp. 38 & 39
V. c. 87, s. 7.

1. To the incumbrances, if any, entered on the register;
2. To such liabilities, rights and interests, if any, as are by this Act declared for the purposes of the Act not to be incumbrances, unless, under the provisions of this Act, the contrary is expressed on the register.
3. Where such first registered owner is not entitled for his own benefit to the land registered, then as between him and any persons claiming under him, to any unregistered estates, rights, interests or equities to which such persons may be entitled; but free from all other estates and interests whatsoever, including estates and interests of Her Majesty, her heirs and successors, which are within the legislative jurisdiction of this Province. R. S. O. 1887, c. 116, s. 11.

14. Where a possessory title only is required, the applicant or his nominee may be registered as owner of the fee simple on giving such evidence of title, and serving such notices, if any, as may for the time being be prescribed. R. S. O. 1887, c. 116, s. 12.

Evidence
where pos-
sessory title
required.
Imp. 38 & 39
V. c. 87, s. 6.

15. The registration of any person as first registered owner of land with a possessory title only, shall not affect or prejudice the enforcement of any estate, right, or interest adverse to or in derogation of the title of such first registered owner, and

Estate of first
registered
owner with
possessory
title.

Imp. 38 & 39 V. c. 87, s. 8. subsisting or capable of arising at the time of registration of such owner; but, save as aforesaid, shall have the same effect as registration of a person with an absolute title. R. S. O. 1887, c. 116, s. 13.

A qualified title may be registered.

Imp. 38 & 39 V. c. 87, s. 9.

16.—(1) Where on the examination of the title it appears to the Master of Titles that the title can be established only for a limited period, or subject to certain reservations, the Master, on the application of the party applying to be registered, may, by an entry made in the register, except from the effect of registration any estate, right, or interest arising before a specified date, or arising under a specified instrument, or otherwise particularly described in the register.

(2) A title registered subject to such excepted estate, right, or interest shall be called a qualified title.

Estate of owner registered with a qualified title.

(3) The registration of a person as first registered owner of land with a qualified title shall have the same effect as the registration of such person with an absolute title, save that registration with a qualified title shall not affect or prejudice the enforcement of any estate, right, or interest appearing by the register to be excepted.

Notice of easement. Imp. 38 & 39 V. c. 87, s. 18, sub-s. d.

(4) Where the existence of any easement is proved the Master of Titles may, if he thinks fit, enter notice thereof on the register.

Statement of appurtenant easement on certificate, etc.

(5) Where title is shewn to any easement appurtenant to the land being registered, the same may be stated in the entry of ownership and land certificate. R. S. O. 1887, c. 116, s. 14.

Land certificate given on registration. Imp. 38 & 39 V. c. 87, s. 10.

17. On the entry of the name of the first registered owner of freehold land on the register, the Master of Titles shall, if required by the owner, deliver to him a Certificate, in this Act called a Land Certificate, in the prescribed form; the Certificate shall state whether the title of the owner therein mentioned is absolute, qualified, or possessory. R. S. O. 1887, c. 116, s. 15.

Rev. Stat. c. 136, not to apply to land under this Act.

18. A certificate by the Master of Titles of the first registration of an owner under this Act shall be registered in the registry division in which the land is situated; and thereafter *The Registry Act* shall cease to apply to the said land. R. S. O. 1887, c. 116, s. 16.

PART II.

LEASEHOLD LAND.

Application for registration with or without a

19.—(1) A separate register shall be kept of leasehold land and any of the following persons; that is to say,

(a) Any person who has contracted to buy for his own benefit leasehold land held under a lease for a life or lives, or determinable on a life or lives, or for a term of years of which more than 21 are unexpired, or in respect of which the lessee or his assigns is or are entitled to a renewal term or succession of terms amounting with the portion unexpired of the current term to 21 years or over, or to a renewal for a life or lives, whether subject or not to incumbrances ;

declaration of
title of lessor
to grant lease.
Imp. 38 & 39
V. c. 87, s. 11.

(b) Any person entitled for his own benefit, at law or in equity, to leasehold land held under any such lease as is described in this section, whether subject or not to incumbrances ; and

(c) Any person capable of disposing for his own benefit by way of sale of leasehold land held under any such lease as is described in this section, whether subject or not to incumbrances ;

may apply to the Master of Titles to be registered, or to have registered in his stead any nominee or nominees not exceeding the prescribed number, as owner or owners of such leasehold land, with the addition, where the lease under which the land is held is derived immediately out of freehold land, and the applicant is able to submit for examination the title of the lessor, of a declaration of the title of the lessor to grant the lease under which the land is held ;

Provided that in the case of leasehold land contracted to be bought, the vendor consents to the application.

(2) Every applicant for registration of leasehold land shall deposit with the Master of Titles the lease of the land in respect of which the application is made, or if such lease is proved to the satisfaction of the Master of Titles to be lost, a copy of such lease or of a counterpart thereof, verified to the satisfaction of the Master of Titles ; and such lease or verified copy is in this Act referred to as the registered lease.

(3) Leasehold land held under a lease containing an absolute prohibition against alienation, shall not be registered in pursuance of this Act.

(4) Leasehold land held under a lease containing a prohibition against alienation without the license of some other person, shall not be registered under this Act until and unless provision is made in the prescribed manner for preventing alienation without such license, by entry in the register of a restriction to that effect, or otherwise. R. S. O. 1887, c. 116, s. 17.

20. An applicant or his nominee shall not be registered as owner of leasehold land until and unless the title to such land is approved by the Master of Titles ; and further, if he apply to be registered as owner of leasehold land with a declaration of the title of the lessor to grant the lease under which the land

Evidence of
title required
on applica-
tion.
Imp. 38 & 39
V. c. 87, s. 12

is held, until and unless the lessor, after an examination of his title by the Master of Titles, is declared to have had an absolute or qualified title to grant the lease under which the land is held. R. S. O. 1887, c. 116, s. 18.

Estate of first registered owner of leasehold land with a declaration of absolute title of lessor to grant lease.

Imp. 38 & 39
V. c. 87, s. 13.

21. The registration under this Act of any person as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held, shall be deemed to vest in such person the possession of the land comprised in the registered lease relating to such land for all the leasehold estate therein described, with all implied or expressed rights, privileges and appurtenances attached to such estate, but subject as follows:

1. To all implied and express covenants, obligations and liabilities incident to such leasehold estate; and

2. To the incumbrances (if any) entered on the register; and,

3. Unless the contrary is expressed on the register, to such liabilities, rights and interests as affect the leasehold estate and are by this Act declared not to be incumbrances in the case of registered freehold land; and

4. Where such first registered owner is not entitled for his own benefit to the land registered as between himself and any persons claiming under him, to any unregistered estates, rights, interests or equities to which such persons may be entitled;

But free from all other estates and interests whatsoever including estates and interests of Her Majesty, her heirs and successors, in case the land is within the jurisdiction of this Legislature in that behalf. R. S. O. 1887, c. 116, s. 19.

Estate of first registered owner of leasehold land without a declaration of title of lessor to grant lease.

Imp. 38 & 39
V. c. 87, s. 14.

22. The registration of any person under this Act as first registered owner of leasehold land without a declaration of the title of the lessor, shall not affect or prejudice the enforcement of any estate, right, or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held; but, save as aforesaid, shall have the same effect as the registration of any person under this Act as first registered owner of leasehold land with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R. S. O. 1887, c. 116, s. 20.

Lessor may be declared to have a qualified title to grant lease.

Imp. 38 & 39
V. c. 87, s. 15.

23. Where on the examination of the title of any lessor by the Master of Titles, it appears to him that the title of such lessor to grant the lease under which the land is held can be established only for a limited period, or subject to certain reservations, the Master of Titles may, by an entry made in the register, except from the effect of registration, any estate, right, or interest arising before a specified date or arising under a specified instrument, or otherwise particularly described in the register; and a title of

a lessor registered subject to such excepted estate, right, or interest is in this Act referred to as a qualified title; and the registration of a person as first registered owner of the leasehold land with a declaration that the lessor had a qualified title to grant the lease under which the land is held, shall have the same effect as the registration of such person with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that registration with the declaration of a qualified title shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. R. S. O. 1887, c. 116, s. 21.

24. On the entry of the name of the first registered owner of leasehold land on the register, the Master of Titles shall, if required by the owner, deliver to him a copy of the registered lease, in this Act called an office copy, authenticated in the prescribed manner, and there shall be endorsed thereon a statement whether any declaration, absolute or qualified, as to the title of the lessor has been made, and any other particulars relating to such lease entered in the register. R. S. O. 1887, c. 116, s. 22.

Office copy of lease given on registration.

Imp. 38 & 39
V. c. 87, s. 16

PART III.

REGISTRATION, HOW EFFECTED.

25. The examination by the Master of Titles of a title under this Act shall be conducted in the prescribed manner, provided as follows:

Regulations as to examination of title by Master.

1. Due notice shall be given where the giving of such notice is prescribed; and sufficient opportunity shall be afforded to any persons desirous of objecting, to come in and state their objections to the Master of Titles.

Imp. 38 & 39
V. c. 87, s. 17.

2. The Master of Titles shall have jurisdiction to hear and determine any such objections, subject to an appeal to the Court in the prescribed manner and on the prescribed conditions.

3. If the Master of Titles, upon the examination of any title, is of the opinion that the title is open to objection, but is nevertheless a title the holding under which will not be disturbed, he may approve of such title, or may require the applicant to apply to the Court, upon a statement signed by the Master, for its sanction to the registration.

4. It shall not be necessary to produce any evidence which, by section 2 of *The Vendor and Purchaser's Act* is dispensed with as between vendor and purchaser, nor to produce or account for the originals of any registered deeds, documents or instruments, unless where the Master of Titles otherwise directs.

Rev. Stat.
c. 134.

5. The Master of Titles in investigating the title may receive and act upon any evidence which is now received by any of the Courts on a question of title; or any evidence which the practice of English conveyancers authorizes to be received on an investigation of a title out of Court; or any other evidence, whether the same is or is not receivable or sufficient in point of strict law, or according to the practice of English conveyancers, provided the same satisfies him of the truth of the facts intended to be made out thereby.

6. The said Master of Titles may refer to and act upon not only the evidence adduced before him in the proceeding in which such evidence is adduced, but also any evidence adduced before him in any other proceeding wherein the facts to which such evidence relates were or are in question.

Deeds to be marked with notice of registration under this Act.

Imp. 38 & 39
V. c. 87, s. 72.

7. A person shall not be registered as owner of land until, if required by the Master of Titles, he has produced to him such documents of title as will in the opinion of the Master of Titles when stamped or otherwise marked, give notice to any purchaser or other person dealing with such land of the fact of the registration, and the Master of Titles shall stamp or otherwise mark the same accordingly, or until he has otherwise satisfied the Master of Titles that the fact of such registration cannot be concealed from a purchaser or other person dealing with the land. R. S. O. 1887, c. 116, s. 23.

Liability of registered land to easements and certain other rights.

Imp. 38 & 39
V. c. 87, s. 18

26.—(1) All registered land shall, unless under the provisions of this Act the contrary is expressed on the register, be deemed to be subject to such of the following liabilities, rights, and interests as for the time being may be subsisting in reference thereto, and such liabilities, rights and interests shall not be deemed incumbrances within the meaning of this Act; (that is to say)—

1. Statutory or municipal taxes and water rates, for the current year;

2. Any municipal charges, rates or assessments theretofore imposed for local improvements, and payable during the current year or afterwards;

3. Any public highway, any right of way, water-course, and right of water, and other easements;

4. Any title or lien which, by possession or improvements or other means, the owner or person interested in any adjoining land has acquired to or in respect of the registered land; and the description of the land shall not, as against adjoining owners, be conclusive as to the boundaries or extent thereof;

5. Any lease or agreement for a lease, for a period yet to run, of not exceeding three years, where there is actual occupation under the same;

6. Any right of the wife or husband of the person registered as owner to dower or curtesy (as the case may be) in case of surviving such owner;

7. Any right of appropriation which may by Statute be vested in any person, or body corporate. R. S. O. 1887, c. 116, s. 24 (1); 56 V. c. 22, s. 5.

(2) If the applicant desires the certificate to declare the title to be free from the first six of the said particulars, or any of them, his application shall so state, and the investigation shall proceed accordingly. R. S. O. 1887, c. 116, s. 24 (2).

27. Where a license under *The Crown Timber Act*, or any Statute for which the said Act is substituted, was or shall be granted, and the land is registered under this Act the same shall be deemed to have been, and to be subject to the rights of the licensee for the current license year or of his assignee, and to the rights of Her Majesty in the pine trees under *The Free Grants and Homesteads Act*, or any Statute for which the said Act is substituted, without the fact of such land being so subject being expressed in the entry in the register, or in the certificate of ownership. 53 V. c. 8, s. 1.

Effect of registration of land upon timber licenses.
Rev. Stat. c. 32.

Rev. Stat. c. 29.

28. All lands registered under this Act shall be subject to the provisions of *The Revised Statute respecting Mills and Dams*, and of *The Revised Statute for protecting the Public Interest in Rivers, Streams and Creeks*, without the fact of such lands being so subject being expressed in the entry in the register or in the certificate of ownership. 52 V. c. 20, s. 5.

Registration to be subject to Rev. Stat. cc. 140, 142.

Mortgages existing at First Registration.

29.—(1) Where land is registered under this Act subject to mortgages existing thereon at the time of the first registration thereof, the mortgages shall be mentioned in the register of the land in the Land Titles Office in the same order as they are registered in the registry office if such mortgages have been so registered, or the dates of the respective registrations thereof shall be stated, but this shall not be taken as an affirmation that such mortgages rank in the order in which they were registered or in the order in which they are mentioned as aforesaid.

Lands subject to mortgage at time of registration.

(2) Abstracts of all instruments dealing with such mortgages shall thereafter be entered in the register of the land in the Land Titles Office, and the entry thereof shall be deemed the registration of the instrument, and the rights of the parties interested or claiming to be interested in any such mortgage so far as it affects land under this Act shall be subject to sections 13 to 16 and 45 to 48 of this Act be decided under the registry law, as if the registrations in the Office of Land Titles had been made under *The Registry Act*. 56 V. c. 22, s. 2.

Rev. Stat. c. 136.

Determination of Incumbrances or Leases existing at First Registration.

Complete or partial discharge of incumbrance.

Imp. 38 & 39
V. c. 87, s. 19.

30.—(1) Where upon the first registration of land, notice of any incumbrance affecting such land has been entered on the register, the Master of Titles shall, on proof to his satisfaction of the discharge of such incumbrance, notify in the prescribed manner on the register, by cancelling the original entry or otherwise, the cessation of such incumbrance. R. S. O. 1887, c. 116, s. 25.

(2) On the requisition or certificate of a mortgagee whose mortgage was entered on the register on the first registration of the land or the registered assignee thereof or of the personal representative of such mortgagee or assignee authorizing or certifying the discharge of any part of the land therefrom or the discharge of any part of the money thereby secured, the Master may note on the register the discharge of such land from the mortgage or the discharge of such part of the money aforesaid. 56 V. c. 22, s. 6 (2) part.

Determination of lease.

Imp. 38 & 39
V. c. 87, s. 20.

31. The Master of Titles shall, on proof to his satisfaction of the determination of any lease of registered land existing at first registration, notify in the prescribed manner on the register, the determination of such lease. R. S. O. 1887, c. 116, s. 26.

Adverse Possession as against Registered Owner.

No acquisition of title by adverse possession.

Imp. 38 & 39
V. c. 87, s. 21.

32.—(1) A title to any land adverse to or in derogation of the title of the registered owner shall not be acquired by any length of possession.

(2) But this section shall not prejudice, as against any person registered as first owner of land with a possessory title only, any adverse claim in respect of length of possession of any other person who was in possession of the land at the time when the registration of such first owner took place. R. S. O. 1887, c. 116, s. 27.

PART IV.

TRANSFER AND MORTGAGE OF REGISTERED LAND.

Mortgage of Registered Land.

Creation of charges, and delivery of certificate of charge.

Imp. 38 & 39
V. c. 87, s. 22.

33.—(1) Every registered owner of land may, in the prescribed manner, charge the land with the payment at an appointed time of any principal sum of money either with or without interest, or as security for any other purpose, and with or without a power of sale to be exercised at or after a time appointed.

(2) The charge shall be completed by the Master of Titles entering on the register the person in whose favour the charge is made as the owner of the charge, and the particulars of the charge, and of the power of sale, if any.

(3) The Master of Titles shall also, if required, deliver to the owner of the charge a certificate of charge, in the prescribed form. R. S. O. 1887, c. 116, s. 28.

34.—(1) Where a registered charge is created on land, there shall be implied on the part of the person being the registered owner of the land at the time of the creation of the charge, his heirs, executors, and administrators (unless there be an entry on the register negating the implication), as follows:—

Implied covenant to pay charges.

Imp. 38 & 39
V. c. 87, s. 23.

1. A covenant with the registered owner for the time being of the charge to pay the principal sum charged, and interest, if any, thereon, at the appointed time and rate; and all taxes, rates, charges, rents, statute labour or other impositions theretofore or thereafter imposed or charged on the land and that in case of default all payments made by the owner of the charge may be added to the principal sum and bear interest.

2. A covenant, if the principal sum or any part thereof is unpaid at the appointed time, to pay interest half-yearly at the appointed rate on so much of the principal sum as for the time being remains unpaid.

(2) Where any charge, whether under seal or not, is expressed to be made in pursuance of *The Act respecting Short Forms of Mortgages*, or refers thereto, and contains any form of words contained in clauses numbered 1, 2, 3, 7, 8, 12, 14, 15 or 16 of Column One, of Schedule B to the last mentioned Act, or to the like effect, whether expressed in the first or third person, such words shall have the same meaning and effect as the words under the corresponding number in Column Two in the said schedule; the directions in the said schedule shall also apply to the said charge. R. S. O. 1887, c. 116, s. 29.

Provision where charge expressed to be made under Rev. Stat. c. 126.

35. Where a registered charge is created on any leasehold land, there shall be implied on the part of the person being the registered owner of such leasehold at the time of the creation of the charge, his heirs, executors, and administrators, unless there be an entry on the register negating the implication, as follows:—

Implied covenant in case of leasehold to pay rent, etc., and indemnify owner of charge

Imp. 38 & 39
V. c. 87, s. 24.

1. A covenant with the registered owner for the time being of the charge, that the person being registered owner of such leasehold at the time of the creation of the charge, his executors, administrators and assigns, will pay, perform and observe the rent, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed;

2. And will keep the owner of the charge, his heirs, executors, and administrators, indemnified against all actions, suits, expenses, and claims, on account of the non-payment of the said rent, or any part thereof, or the breach of the said covenants or conditions, or any of them. R. S. O. 1887, c. 116, s. 30.

Entry by
owner of
charge.

Imp. 38 & 39
V. c. 87, s. 25

36. Subject to any entry to the contrary on the register, the registered owner of a registered charge may, for the purpose of obtaining satisfaction of any moneys due to him under the charge, at any time during the continuance of his charge, enter upon the land charged, or any part thereof, or into the receipt of the rents and profits thereof, subject nevertheless to the right of any persons appearing on the register to be prior incumbrancers, and to the liability attached to a mortgagee in possession. R. S. O. 1887, c. 116, s. 31.

Foreclosure by
owner of
charge.

Imp. 38 & 39
V. c. 87, s. 26.

37. Subject to any entry to the contrary on the register the registered owner of a registered charge may enforce a foreclosure or sale of the land charged, in the same manner and under the same circumstances in and under which he might enforce the same if the land had been transferred to him by way of mortgage, subject to a proviso for redemption on payment of the money named at the appointed time. R. S. O. 1887, c. 116, s. 32.

Remedy of
owner of
charge with a
power of sale.

Imp. 38 & 39
V. c. 87, s. 27.

38. Subject to any entry to the contrary on the register, the registered owner of a registered charge with a power of sale may, at any time after the expiration of the appointed time, sell and transfer the land (that is, the interest therein which is the subject of the charge), or any part of such land, in the same manner as if he were the registered owner of the land, to the extent of the interest therein aforesaid. R. S. O. 1887, c. 116, s. 33.

Priority of
registered
charges.

Imp. 38 & 39
V. c. 87, s. 28.

39. Subject to any entry to the contrary on the register, registered charges on the same land shall as between themselves rank according to the order in which they are entered on the register, and not according to the order in which they are created. R. S. O. 1887, c. 116, s. 34.

Discharge of
incumbrance.

Imp. 38 & 39
V. c. 87, s. 28.

40.—(1) The Master of Titles shall, on the requisition of the registered owner of any land and on due proof of the satisfaction of a charge thereon, or may on the requisition of the registered owner of a charge or of his personal representative or on his certificate of the satisfaction thereof, notify on the register in the prescribed manner, by cancelling the original entry or otherwise, the cessation of the charge; and thereupon the charge shall be deemed to have ceased. R. S. O. 1887, c. 116, s. 35 (1): 56 V. c. 22, s. 6 (1).

(2) The Master of Titles may in like manner notify the cessation of any other incumbrance. R. S. O. 1887, c. 116, s. 35 (2).

(3) On the requisition or certificate of the registered owner of a charge, or of the personal representative of such owner authorizing or certifying the discharge of any part of the land therefrom or the discharge of any part of the money thereby secured, the master may note on the register the discharge of such land from the charge or the discharge of such part of the money aforesaid. 56 V. c. 22, s. 6 (2) part. Partial cessation of charge.

Transfers after land is brought under this Act.

41.—(1) Every registered owner of land may, in the prescribed manner, transfer such land or any part thereof. Transfer of land, and delivery of land certificate.

(2) The transfer shall be completed by the Master of Titles entering on the register the transferee as owner of the land transferred; and until such entry is made the transferor shall be deemed to remain owner of the land. Imp. 38 & 39 V. c. 37, s. 29.

(3) Upon completion of the registration of the transferee, the Master of Titles shall, if required, deliver to him a land certificate in the prescribed form.

(4) Where part only of the land is transferred, the Master of Titles shall also, if required, deliver to the transferor a land certificate containing a description of the land retained by him. R. S. O. 1887, c. 116, s. 36.

42. Any person who is entitled to have a transfer or charge entered in the register, shall have the right to require the holder of the certificate of ownership, if any is outstanding, to produce the certificate to the Master of Titles, or to deliver it to such person for production for the purpose of having all proper entries or alterations made thereon by the Master, or for cancellation when the certificate has become effete. A person entitled to have a cessation of a charge entered shall have the right to have an outstanding certificate of the ownership of the said charge produced in manner aforesaid in order that the said certificate may be cancelled. 52 V. c. 20, s. 11. Right to compel production of certificate of ownership.

43. Where upon an application for the registration of a charge or of a transfer of any land or charge, the Master considers it expedient to require the production of the certificate of ownership, either for the purpose of identifying the person dealing with the land or charge or for cancellation when the same ought to be cancelled or for any other purpose, he may do so and may decline to enter the charge or transfer in the register until the certificate has been produced. If the certificate is not produced within such time as the Master limits he may return the transfer or charge. 52 V. c. 20, s. 12. Master may require production of certificate of ownership.

44. Where registered land is transferred to trustees under *The Act respecting the property of Religious Institutions*, the trustees shall be registered as owners in the usual manner and Transfers to trustees under Rev. Stat., c. 307.

by their corporate name without setting out the purposes or trusts on which the land is held but a note shall be made by the Master that the land is only to be transferred or charged in accordance with the provisions of the said Act. 56 V. c. 22, s. 4.

Estate of transferee for valuable consideration of land with absolute title.

Imp. 38 & 39
V. c. 87, s. 30.

45. A transfer for valuable consideration of land registered with an absolute title shall, when registered, confer on the transferee an estate in fee simple in the land transferred, together with all rights, privileges, and appurtenances belonging or appurtenant thereto, subject as follows:—

1. To the incumbrances, if any, entered on the register; and

2. To such liabilities, rights, and interests, if any, as are by this Act declared for the purposes of the Act not to be incumbrances (unless the contrary is expressed on the register),

But free from all other estates and interests whatsoever, including estates and interests of Her Majesty, her heirs and successors, which are within the legislative jurisdiction of this Province. R. S. O. 1887, c. 116, s. 37.

Estate of transferee for valuable consideration of land with qualified title.

Imp. 38 & 39
V. c. 87, s. 31.

46. A transfer for valuable consideration of land registered with a qualified title shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with an absolute title, save that such transfer shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted. R. S. O. 1887, c. 116, s. 38.

Estate of transferee for valuable consideration of land with possessory title.

Imp. 38 & 39
V. c. 87, s. 32.

47. A transfer for valuable consideration of land registered with a possessory title shall not affect or prejudice the enforcement of any right or interest adverse to or in derogation of the title of the first registered owner, and subsisting, or capable of arising, at the time of the registration of such owner; but, save as aforesaid, shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with an absolute title. R. S. O. 1887, c. 116, s. 39.

Estate of voluntary transferee of land.

Imp. 38 & 39
V. c. 87, s. 33.

48. A transfer of land registered under this Act, made without valuable consideration shall, so far as the transferee is concerned, be subject to any unregistered estates, rights, interests, or equities subject to which the transferor held the same; but, save as aforesaid, shall, when registered, in all respects, and in particular as respects any registered dealings on the part of the transferee, have the same effect as a transfer of the same land for valuable consideration. R. S. O. 1887, c. 116, s. 40.

Claims for Dower.

49.—(1) Where it is claimed that registered land is free from dower on account of the land being held in trust, or for some reason other than the wife's release of her dower by an instrument which can be produced and registered, and evidence to this effect which appears satisfactory is produced before the Master, he may issue a notice requiring the wife who might otherwise seem entitled to dower, to support her right if she claims to be entitled to dower in the land; and in case she fails to do so and to displace the *prima facie* case made, the Master may enter in the register a memorandum that the land is free from dower, and such entry, shall, unless reversed on appeal, be a bar to any claim by such wife; and no appeal shall lie, unless the wife files a claim before the Master.

Claim that
land is free
from dower.

(2) This section shall also apply to the widow of a former owner. 53 V. c. 32, s. 5; 60 V. c. 15, Sched. A (40).

50. Where registered land is transferred subject to a charge, or in case the registered owner of land which is subject to a charge subsequently marries, the wife of such transferee or owner shall have the same rights in respect of dower as she would have had if the legal estate had been transferred by an ordinary mortgage and no others. 56 V. c. 22, s. 3.

Dower of wife
of transferee
of incumbered
land.

Transfers of leaseholds under this Act.

51.—(1) Every registered owner of any leasehold land may in the prescribed manner, transfer the whole of his estate in such land or in any part thereof.

Transfer of
leasehold
land and
delivery of
office copy of
lease.

(2) The transfer shall be completed by the Master of Titles entering on the register the transferee as owner of the leasehold transferred, but until such entry is made the transferor shall be deemed to remain owner.

Imp. 38 & 39
V. c. 87, s. 34.

(3) Upon completion of the registration of the transferee, if the transfer includes the whole of the land comprised in the registered lease relating to such land, the transferee shall be entitled to the office copy of the registered lease.

(4) If a part only is transferred, the Master of Titles shall, if required according to any agreement that has been entered into between the transferor and transferee, deliver to the one the office copy of the registered lease and to the other a fresh office copy of such lease, each of such copies shewing, by endorsement or otherwise, the parcels of which the person to whom such copy is delivered is the registered owner. R. S. O. 1887, c. 116, s. 41.

52. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had an absolute

Estate of
transferor for
valuable con

sideration of leasehold land with a declaration of absolute title of lessor.

Imp. 38 & 39
V. c. 87, s. 35.

title to grant the lease under which the land is held shall, when registered, be deemed to vest in the transferee the possession of the land transferred for all the leasehold estate described in the registered lease relating to such land and then unexpired, with all implied or expressed rights, privileges, and appurtenances attached to such estate, but subject as follows :

1. To all implied and express covenants, obligations, and liabilities incident to such estate ;

2. To the incumbrances (if any) entered on the register ;

3. To such liabilities, rights, and interests as affect the leasehold estate and are by this Act declared for the purposes of the Act not to be incumbrances in the case of registered freehold land, unless the contrary is expressed on the register ;

But free from all other estates and interests whatsoever including any estates and interests of Her Majesty, her heirs and successors, which may be subject to the legislative authority of this Province. R. S. O. 1887, c. 116, s. 42.

Estate of transferee for valuable consideration of leasehold land without a declaration of title of lessor.
Imp. 38 & 39
V. c. 87, s. 37.

53. A transfer for valuable consideration of leasehold land registered without a declaration of the title of the lessor, shall not affect the enforcement of any estate, right or interest affecting or in derogation of the title of the lessor to grant the lease under which the land is held ; but, save as aforesaid, shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held. R. S. O. 1887, c. 116, s. 43.

Estate of transferee for valuable consideration of leasehold land with a declaration of qualified title of lessor.

Imp. 38 & 39
V. c. 87, s. 36.

54. A transfer for valuable consideration of leasehold land registered with a declaration that the lessor had a qualified title to grant the lease under which the land is held shall, when registered, have the same effect as a transfer for valuable consideration of the same land registered with a declaration that the lessor had an absolute title to grant the lease under which the land is held, save that such transfer shall not affect or prejudice the enforcement of any right or interest appearing by the register to be excepted from the effect of registration. R. S. O. 1887, c. 116, s. 44.

Estate of voluntary transferee of leasehold land.

Imp. 38 & 39
V. c. 87, s. 38.

55. A transfer of a registered leasehold interest in land made without valuable consideration shall, so far as the transferee is concerned, be subject to any unregistered estates, rights, interests, or equities subject to which the transferor held the same ; but, save as aforesaid, shall, when registered, in all respects and in particular as respects any registered dealings on the part of the transferee, have the same effect as a transfer of the same land for valuable consideration. R. S. O. 1887, c. 116, s. 45.

56. On the transfer of any registered leasehold interest in land under this Act, unless there be an entry on the register negating such implication, there shall be implied as follows:—

Implied covenants on transfer of leasehold estates.

1. On the part of the transferor, a covenant with the transferee that,—notwithstanding anything by such transferor done, omitted, or knowingly suffered,—the rents, covenants, and conditions reserved and contained by and in the registered lease, and on the part of the lessee to be paid, performed, and observed, have been so paid, performed, and observed up to the date of the transfer; and

Imp. 38 & 39
V. c. 87, s. 39.

2. On the part of the transferee, a covenant with the transferor, that he, the transferee, his executors, administrators, or assigns, will pay, perform, and observe the rents, covenants, and conditions by and in the registered lease reserved and contained, and on the part of the lessee to be paid, performed, and observed, and will keep the transferor, his heirs, executors, and administrators, indemnified against all actions, suits, expenses, and claims on account of the non-payment of the said rent or any part thereof, or the breach of the said covenants or conditions, or any of them. R. S. O. 1887, c. 116, s. 46.

Transfer of Charges.

57.—(1) The registered owner of a charge may, in the prescribed manner, transfer such charge to another person as owner.

Transfer of charges on register.

Imp. 38 & 39
V. c. 87, s. 40

(2) The transfer shall be completed by the Master of Titles entering on the register the transferee as owner of the charge transferred.

(3) The Master of Titles shall also, if required, deliver to the transferee a fresh certificate of charge.

(4) The transferor shall be deemed to remain owner of such charge until the name of the transferee is entered on the register in respect thereof. R. S. O. 1887, c. 116, s. 47.

(5) The registered owner of a charge may transfer a part of the sum secured by the charge; and the part so transferred may be given priority over the remaining part, or may be deferred, or may continue to rank equally with it, as may be stated in the transfer. 53 V. c. 32, s. 6.

Transfer of part of a charge.

Time of Registration.

58. The day, hour and minute, of the receipt of each instrument and copy of writ shall be noted thereon, and for the purpose of priority between mortgagees, transferees and others, the time of the receipt shall be deemed the time of registration. R. S. O. 1887, c. 116, s. 48.

Priority.

Transmission of Land and Charges on Owner's Death.

Transmission
on death of
owner of
freehold land.

Imp. 38 & 39
V. c. 87, s. 41.

59. On the death of the sole registered owner, or of the survivor of several joint registered owners, of any freehold land, such person shall be registered as owner, in the place of the deceased owner or owners, as may on the application of any person interested in such land, be appointed by the Master of Titles, regard being had to the rights of the several persons interested in the land, and in particular to the selection of any such persons as may for the time being appear to the Master of Titles to be entitled, according to law, to be so appointed: subject to an appeal to the Court in the prescribed manner by any person aggrieved by any order of the Master under this section. R. S. O. 1887, c. 116, s. 49.

Transmission
on death of
owner of
leasehold land
or of charge.

Imp. 38 & 39
V. c. 87, s. 42.

60. On the death of the sole registered owner, or of the survivor of several joint registered owners of any leasehold land or of any charge, the executor or administrator of such sole deceased owner, or of the survivor of such joint owners, shall be entitled to be registered as owner in his place. R. S. O. 1887, c. 116, s. 50.

Transmission
on death of
one of several
owners.

61 Where two or more persons have been entered under this Act as owners of any land or charge, and any of them dies, his personal representative may apply to be entered as owner jointly with the survivor or survivors. 52 V. c. 20, s. 1.

Nature of title
of registered
fiduciary
owner.

Imp. 38 & 39
V. c. 87, s. 46.

62. Any person registered in the place of a deceased owner shall hold the land or charge, in respect of which he is registered, upon the trusts and for the purposes to which the same is applicable by law, and subject to any unregistered estates rights, interests, or equities subject to which the deceased owner held the same; but, save as aforesaid, he shall in all respects, and in particular as respects any registered dealings with such land or charge, be in the same position as if he had taken such land or charge under a transfer for a valuable consideration. R. S. O. 1887, c. 116, s. 51.

Evidence of
transmission
of registered
ownership.

Imp. 38 & 39
V. c. 87, s. 47.

63. The fact of any person having become entitled to any land or charge in consequence of the death of any registered owner, shall be proved in the prescribed manner. R. S. O. 1887, c. 116, s. 52.

Executions and Sale thereunder.

Notice of
executions.

64.—(1) The sheriff, forthwith after the delivery to him of any execution or other writ, and any renewal thereof, affecting registered land, shall, upon the written request of the party by whom such execution or other writ was sued out or renewed, or of his solicitor, but not otherwise, deliver or transmit by registered letter to the Master of Titles a copy of the writ certified under his hand; and no land registered under this

Act shall be bound by any such writ until such copy has been received by the Master: and from and after the receipt by him of the copy, no transfer by the execution debtor shall be effectual, except subject to the rights of the execution creditor under the writ. R. S. O. 1887, c. 116, s. 53 (1); 51 V. c. 11, s. 5.

(2) The Master of Titles shall keep a book in the prescribed form, in which shall be entered a record of all writs received by him from the sheriff as aforesaid.

(3) No sale or transfer under any such writ shall be valid as against a person purchasing for valuable consideration before such entry is made, notwithstanding the purchaser may have had notice of the writ.

(4) Upon production to the Master of Titles of sufficient evidence of the satisfaction of any such writ, he shall cause an entry to be made in the said book to that effect; and on such entry such writ shall be deemed to be satisfied.

(5) The sheriff shall be entitled to a fee of fifty cents for each writ transmitted by him to the Master of Titles in manner aforesaid. R. S. O. 1887, c. 116, s. 53 (2-5).

(6) Every writ and renewal of a writ shall be presumed to have been spent, and the delivery or transmission of a copy thereof shall cease to have effect, at the expiration of four years from the date of the writ or renewal as appearing in the copy transmitted. R. S. O. 1887, c. 116, s. 53 (6); 58 V. c. 13, s. 31, part.

(7) Where an execution or other writ is issued against the registered owner under a different name from that under which he or she is registered, the execution shall have no effect under this Act, unless the person who sues out the writ serves a notice on the Master of Titles, stating the name under which the execution debtor is registered, and otherwise in the form or to the effect prescribed, or unless a like notice is written upon the copy of the writ. R. S. O. 1887, c. 116, s. 53 (7).

65. Where a transferor or transferee of land, or maker or owner of a charge, claims that a writ apparently affecting land does not affect the land or charge, he shall produce such evidence thereof as the Master may consider necessary, and the Master may require all parties interested to be notified of the application to register, without reference to the writ, the instrument under which the claim is made, and the Master may either himself decide the question or may direct an issue or case to be tried and may make such order as to costs as he deems just. R. S. O. 1887, c. 116, s. 53 (8).

66. Unless where proceedings are (in the case of a mortgage or charge) taken under section 23 of *The Execution Act*, the seizure of a mortgage, charge or leasehold land registered under this Act, under any execution or other writ

Expiry of writ.

Notice to Master where writ issues against owner under a different name from that on the register

Provision in case it is claimed that land is not affected by a writ apparently affecting same.

Seizure of mortgage, charge or lease under execution. Rev. Stat. c. 77.

shall not affect the same until the sheriff or other officer has lodged with the proper Master of Titles a certificate that he has taken such mortgage, charge or leasehold land under an execution against the registered owner thereof; and such certificate shall state the number of the parcel under which the land is registered, and the name of the owner; and shall be noted by the Master in the register. 53 V. c, 32, s. 7.

Sale under
registration of
execution.

67. Where any land which has been registered under this Act shall be sold by the sheriff under execution, the Master of Titles shall, upon the production to him of the transfer of the same by the sheriff in the prescribed form, with proof of the due execution thereof, cause a notice to be mailed to the proper post-office address of the person whose interest in the land shall have been sold; and after the expiration of two weeks from the mailing of the notice, and, on proof to his satisfaction of the payment of all municipal taxes, except the taxes for the current year, and of all charges, rates, or assessments imposed for local improvements, and due or payable up to the end of the preceding year, and if no other person has become entitled meanwhile for want of entry of the said writ or otherwise, the Master of Titles shall register the purchaser as the owner of the land, and shall, if required, issue to him a certificate in the prescribed form. R. S. O. 1887, c. 116, s. 54.

Sales for Taxes.

Sale for taxes.

68. Where any land which has been registered under this Act shall be sold for taxes, the purchaser may at any time after the sale lodge a caution against the transfer of the land; and upon the completion of the time allowed by law for redemption, and upon the production of the transfer of the land in the prescribed form, with proof of the due execution thereof by the proper officer, the Master of Titles shall cause a notice to be mailed to the proper post-office addresses of the several persons who appear upon the register to be interested in the land; and after the expiration of three months from the mailing of the notice, shall register the purchaser at the sale as owner of the land, with an absolute title; and shall, if required, issue to the purchaser a certificate of title in the prescribed form, unless the registration shall in the meantime be stayed by the order of the Court; and in that case the registration shall not be made, nor shall the certificate be issued, except in accordance with the order and direction of the Court. R. S. O. 1887, c. 116, s. 56.

Cessation of Mechanics' Liens.

Cancellation
of liens regis-
tered under
Rev. Stat.
c. 153,

69. On its appearing to the satisfaction of a Master that a registered lien or claim of lien under *The Mechanics' and Wage Earners' Lien Act* has ceased to exist by reason of proceedings not having been taken within the time limited in that behalf, the Master may make an entry accordingly, or an entry can-

celling the registered claim; and the land affected shall thereby be deemed to be released from the claim. 53 V. c. 32, s. 11.

[As to registration of *Mechanics' Liens*, see *The Mechanics' and Wage Earners' Lien Act, Cap. 153, sec. 17.*]

PART V.

OTHER DEALINGS WITH REGISTERED LAND.

Registered owner only may make registered disposition.

70.—(1) The registered owner alone shall be entitled to transfer or charge registered land by a registered disposition. Effect of unregistered dispositions.
Imp. 38 & 39
V. c. 87, s. 49.

(2) But, subject to the maintenance of the estate and right of such owner, any person, whether the registered owner or not of any registered land, having a sufficient estate or interest in the land, may create estates, rights, interests and equities in the same manner as he might do if the land were not registered.

(3) And any person entitled to or interested in any unregistered estates, rights, interests, or equities in registered land may protect the same from being impaired by any act of the registered owner, by entering on the register such notices, cautions, inhibitions, or other restrictions as are in this Act in that behalf mentioned.

(4) The registered owner alone shall be entitled to transfer a registered charge by a registered disposition; but, subject to the maintenance of the right of such owner, unregistered interests in a registered charge may be created in the same manner and with the same incidents, so far as the difference of the subject-matter admits, in and with which unregistered estates and interests may be created in registered land. R. S. O. 1887, c. 116, s. 57.

Right to Registration.

71.—(1) Every transfer or charge signed by a registered owner or others claiming by transfer through, or under him, purporting to transfer or charge land, or an interest therein, capable of being registered under this Act, or purporting to transfer a charge, shall, until cut out by a conflicting registration, be deemed to confer upon the person intended to take under such transfer or charge, a right to be registered as the owner of such land or charge, and where a person applies to be registered under this section, the Master may either forthwith, or after requiring such notices to be given as he deems expedient, register such applicant as owner, subject to such incumbrances, if any, as the condition of the title requires, notwithstanding in any of the said cases that the transfer or charge has been executed or bears date prior to the entry of such transferor or chargor as the owner of the land or charge. Right of transferees, chargees, devisees, etc., to registration.

Application.

(2) Any person claiming to be entitled to land, or to an interest therein, capable of being registered as aforesaid, or to a charge, as devisee, heir, executor or administrator of a person who might have been registered under the preceding subsection, or any person claiming through or under such devisee, heir, executor or administrator, may apply to be registered as owner of such land or interest, and may, if no conflicting registration has been made, be so registered subject to the provisions of this section.

Mode of entry.

(3) On registering the applicant, the Master shall, so far as practicable, enter in the register short particulars of every instrument or other title under which the said right is conferred, as if such instrument had been duly presented for registration, or application for entry of transmission had been made in the proper order of time, and may, as a preliminary step to the registration of the applicant, enter any intermediate transferee, heir, executor or administrator, as registered owner, where this method is more convenient.

All persons entitled must apply.

(4) No application by any person claiming through or under a deceased person shall be allowed unless all the persons entitled to the whole of the estate of the deceased in the land are parties thereto. 56 V. c. 22, s. 7.

*Notices of Leases.***Lessee may apply for registration of notice of lease.**
Imp. 38 & 39
V. c. 87, s. 50.

72.—(1) Any lessee or other person entitled to or interested in a lease or agreement for a lease of registered land made subsequently to the last entry of ownership on the register, where the term granted is for a life or lives, or is determinable on a life or lives, or exceeds three years, or where the occupation is not in accordance with such lease or agreement may apply to the Master of Titles to register notice of such lease or agreement in the prescribed manner.

(2) When so registered every registered owner of the land and every person deriving title through him, excepting owners of incumbrances registered prior to the registration of such notice, shall be deemed to be affected with notice of the lease or agreement as being an incumbrance on the land in respect of which the notice is entered.

(3) Where notice of such lease or agreement has been registered the Master of Titles shall, on proof, to his satisfaction of the determination of the lease or agreement, notify in the prescribed manner the determination on the register. R. S. O. 1887, c. 116, s. 58.

Manner of registering notices of leases.

Imp. 38 & 39
V. c. 87, s. 51.

73.—(1) In order to register notice of a lease or agreement for a lease, if the registered owner of the land does not concur in such registry, the applicant shall apply to the Master of Titles on notice to the registered owner for leave to register the notice of such lease or agreement, and shall deliver

to the Master of Titles, the original lease or agreement or a copy thereof; and in case the application is granted the Master shall make a note in the register identifying the lease or agreement or copy so deposited, and the lease or agreement or copy so deposited shall be deemed to be the instrument of which notice is given.

(2) If the registered owner concurs in such registry, notice may be entered in such manner as may be agreed upon. R. S. O. 1887, c. 116, s. 59.

Notice of Estates in Dower or by the Curtesy.

74. Any person entitled to an estate in dower or by the curtesy in any registered land, may apply in the prescribed manner to the Master of Titles to register notice of such estate; and the Master of Titles, if satisfied of the title of such person to such estate, shall register notice of the same accordingly in the prescribed form; and when so registered, such estate shall be an incumbrance appearing on the register, and shall be dealt with accordingly. R. S. O. 1887, c. 116, s. 60.

Registration of notices of estates in dower or by the curtesy.
Imp. 38 & 39
V. c. 87, s. 52.

Caution against Registered Dealings.

75.—(1) Any person interested in any way in any land or charge registered in the name of any other person, may lodge a caution with the Master of Titles to the effect that no dealings with such land or charge be had on the part of the registered owner until notice has been served upon the cautioner.

Caution against registered dealings, how to be lodged.
Imp. 38 & 39
V. c. 87, s. 53.

(2) The caution shall be supported by an affidavit or declaration made by the cautioner or his agent or solicitor in the prescribed form, and containing the prescribed particulars.

(3) Provided, that a person interested under a lease, or agreement for a lease, of which notice has been entered on the register, or a person entitled to an estate in dower, or estate by the curtesy, of which notice has been entered on the register, shall not be entitled to a caution in respect of such lease or estate in dower or by the curtesy. R. S. O. 1887, c. 116, s. 61.

76.—(1) After any such caution has been lodged, the Master of Titles shall not, without the consent of the cautioner, register any dealing with the land or charge until he has served notice on the cautioner, warning him that his caution will cease to have any effect after expiration of the prescribed number of days next ensuing the date at which the notice is served.

Cautioner entitled to notice of proposed registered dealings.
Imp. 38 & 39
V. c. 87, s. 54.

(2) After the expiration of such time as aforesaid, the caution shall cease unless an order to the contrary is made by the Master.

(3) Upon the caution so ceasing, the land or charge shall be dealt with in the same manner as if no caution had been lodged. R. S. O. 1887, c. 116, s. 62.

When notice of proposed registered dealings need not be given to cautioner.

(4) A notice to a cautioner shall not be required where the dealing proposed to be registered is under the authority of a judgment or order of court in a suit or proceeding to which the cautioner is a party, or where such dealing is under a power of sale contained in a charge or mortgage which is prior to the title under which the cautioner claims, and the cautioner has been served with a notice of the proposed exercise of the power of sale, and the caution is not in respect of the exercise of the power of sale, or where the dealing is of such a nature that it cannot detrimentally affect the interest of the cautioner as claimed in the affidavit filed with his caution. 56 V. c. 22, s. 9.

Registered owner object- ing to the registration of his transferee.

77.—(1) Where the registered owner of any land has executed a transfer thereof, but claims that on account of special circumstances shown by affidavit to the satisfaction of the Master, the transferee should not be registered without notice to the registered owner to that effect, the Master of Titles may permit the registration of a caution by the registered owner.

(2) The registration of such caution shall stay the registration of the transfer until notice has been served on the cautioner in accordance with the provisions of section 76 of this Act. 56 V. c. 22, s. 8.

Registered dealings delayed on security being given.

Imp. 38 & 39
V. c. 87, s. 55

78. If before the expiration of the said period the cautioner or some other person on his behalf, appears before the Master of Titles, and within such period, or such additional period as the Master may allow, gives sufficient security to indemnify every party against any damage that may be sustained by reason of any dealing with the land or charge being delayed, the Master of Titles may thereupon, if he thinks fit so to do, delay registering any dealing with the land or charge for such further period as he thinks just, or may instead of taking the security aforesaid register such dealing, subject to the caution, on any condition which he thinks fit to impose, as to security or otherwise. R. S. O. 1887, c. 116, s. 63.

Entry of second caution.

79. After a caution against registered dealing has ceased to have effect, a second caution by the same cautioner, or in respect of the same matter, shall not be lodged, or if lodged shall not be entered, or have any effect without the special permission of the Master of Titles, which may be given either upon terms or without terms, as he may think proper. 53 V. c. 32, s. 9.

Sale of Standing Timber.

Sale of stand- ing timber.

80. Where timber standing upon any land registered under this Act, is sold under an agreement in writing, the purchaser, instead of entering a caution, may deposit the agreement with the Master of Titles of the county, city, town or district; and such Master, upon proof of the due execution thereof by the owner, shall register the same as an incumbrance upon the

land by entering a memorandum upon the register of the parcel, referring to the instrument and giving shortly the effect thereof. 53 V. c. 32, s. 8.

Inhibition against Registered Dealings.

81.—(1) The Court, or the Master of Titles, upon the application of any person interested, made in the prescribed manner in relation to any registered land or charge, may, after directing such inquiries (if any) to be made and notices to be given, and hearing such persons as the Court or Master of Titles thinks expedient, issue an order or make an entry inhibiting for a time, or until the occurrence of an event to be named in such order or entry, or generally until further order or entry, any dealing with registered land or with a registered charge.

Power of court or master to inhibit registered dealings.
Imp. 38 & 39
V. c. 87, s. 57

(2) The Court or the Master of Titles may make, or refuse to make, any such order or entry, and impose any terms or conditions the Court or Master of Titles may think fit, and may discharge the order or cancel the entry where granted, with or without costs, and generally act in the premises in such manner as the justice of the case requires. R. S. O. 1887, c. 116, s. 64.

Power of Registered Owner to impose Restrictions.

82. Where the registered owner of any land is desirous for his own sake, or at the request of some person beneficially interested in such land, to place restrictions on transferring or charging the land, such owner may apply to the Master of Titles to make an entry in the register that no transfer shall be made of or charge created on the land unless the following things, or such of them as the owner may determine, are done; that is to say—

Power to place restrictions on register.
Imp. 38 & 39
V. c. 87, s. 58.

Unless notice of any application for a transfer or for the creation of a charge is transmitted by registered letter to such address as he may specify to the Master of Titles;

Unless the consent of some person or persons, to be named by the owner, is given to the transfer or the creation of a charge;

Unless some such other matter or thing is done as may be required by the applicant and approved by the Master of Titles. R. S. O. 1887, c. 116, s. 65.

83.—(1) The Master of Titles shall thereupon, if satisfied of the right of the applicant to give such directions, make a note of such directions on the register, and no transfer shall be made or charge created except in conformity with such directions.

Master to enter restrictions in register.
Imp. 38 & 39
V. c. 87, s. 59.

(2) It shall not be the duty of the Master of Titles to enter any of the above directions, except upon such terms as to payment of the fees and otherwise as may be prescribed, or to enter any restriction that the Master of Titles may deem unreasonable, or calculated to cause inconvenience.

(3) Any such directions may at any time be withdrawn or modified at the instance of all the persons for the time being appearing by the registry to be interested in such directions, and shall also be subject to be set aside by the order of the Court. R. S. O. 1887, c. 116, s. 66.

PART VI.

PROVISIONS SUPPLEMENTAL TO FOREGOING PARTS OF ACT.

Notice of Registered Instruments.

Notice by
registration.

84. No person other than the parties thereto shall be held to have any notice of the contents of any instrument other than those instruments mentioned in the existing register of title of the parcel of land, or which have been duly entered in the books of the office kept for the entry of instruments received or in course of entry. 56 V. c. 22, s. 11.

Caution against entry of Land on Register.

Caution
against regis-
tration of
land.
Imp. 38 & 39
V. c. 87, s. 60.

85.—(1) Any person having or claiming such an interest in any land which is not already registered as entitles him to object to any disposition thereof being made without his consent, may lodge a caution with the Master of Titles to the effect that the cautioner is entitled to notice in the prescribed form, and to be served in the prescribed manner, of any application that may be made for the registration of such land. R. S. O. 1887, c. 116, s. 68.

Renewal of
every five
years.

(2) Every caution under this section shall be renewed before the expiration of five years from the date of lodging the same, otherwise it shall cease to have effect. Rules of 19th July, 1897, No. 20 (3).

(3) No caution registered under this section in respect of any unpatented land shall be of any validity unless the description contained therein specifies the land in accordance with the description subsequently contained in the Patent, or describes the same in such manner that the Local Master will know that the description in the caution is intended to affect the land described in the Patent. 60 V. c. 19, s. 2 (1, 3); c. 21, s. 2 (2).

86. The Master of Titles shall not register any *lis pendens* affecting lands under this Act ; but any party to an action, or his solicitor, or any person claiming to be interested in the action, may enter a caution. R. S. O. 1887, c. 116, s. 69.

Lis pendens
not to be
registered.

87. Every caution shall be supported by an affidavit or declaration in the prescribed form, stating the nature of the interest of the cautioner, the land to be affected by the caution, and such other matters as may be prescribed. R. S. O. 1887, c. 116, s. 70.

Caution to be
supported by
affidavit.

Imp. 38 & 39
V. c. 87, s. 61.

88. After a caution has been lodged in respect of any land not already registered, and while the same is in force, registration shall not be made of such land until notice has been served on the cautioner to appear and oppose, if he thinks fit, such registration, and until the prescribed time has elapsed since the date of the service of such notice, or the cautioner has appeared, whichever may first happen. R. S. O. 1887, c. 116, s. 71.

Cautioner en-
titled to notice
of proposed
registration of
land.

Imp. 38 & 39
V. c. 87, s. 62.

Caution Wrongfully Lodged.

89. If any person lodges a caution with the Master of Titles without reasonable cause, he shall be liable to make, to any person who may sustain damage by the lodging of such caution, such compensation as may be just ; and such compensation shall be deemed to be a debt due to the person who has sustained damage from the person who has lodged the caution. R. S. O. 1887, c. 116, s. 72.

Compensation
for improper
lodging of
caution.

Imp. 38 & 39
V. c. 87, s. 63.

90. A caution lodged in pursuance of this Act shall not prejudice the claim or title of any person, and shall have no effect whatever except as in this Act mentioned. R. S. O. 1887, c. 116, s. 73.

Saving as to
effect of
caution.

Imp. 38 & 39
V. c. 87, s. 64.

Costs.

91. The Master of Titles may order costs, either as between party and party, or as between solicitor and client to be paid by or to any person party to any proceeding under this Act, and may give directions as to the fund out of which any costs shall be paid, regard being had to the following provisions, namely :

Payment of
costs.

Imp. 38 & 39
V. c. 87, s. 73.

That any applicant under this Act is liable *prima facie* to pay all costs, charges, and expenses incurred by or in consequence of his application, except in a case where parties object whose rights are sufficiently secured without their appearance, or where any costs, charges, or expenses are incurred unnecessarily or improperly, and subject to this proviso, that any party aggrieved by any order of the Master of Titles under this section may appeal in the prescribed manner to the Court, which may, with or without modification, annul or confirm the order of the Master. R. S. O. 1887, c. 116, s. 74.

Enforcement
of order.

92. If any person disobeys any order of the Master of Titles made in pursuance of the preceding section, the Master may certify such disobedience to the Court, and thereupon such person, subject to such right of appeal as aforesaid, may be punished by the Court, and execution issued to enforce the order, in the same manner in all respects as if the order made by the Master were the order of the Court. R. S. O. 1887, c. 116, s. 75.

Doubtful Questions arising on Title.

Master may
state case for
opinion of
Court.

Imp. 38 & 39
V. c. 87, s. 74.

93. Whenever upon the examination of the title to any land the Master of Titles entertains a doubt as to any matter of law or fact arising upon the title, he may, upon the application of any person interested in such land, refer a case for the opinion of the High Court, with power for the Court to direct an issue to be tried before a jury or otherwise, for the purpose of determining any fact. The Master may also name the parties to such case, and the manner in which the proceedings in relation thereto are to be brought before the Court. R. S. O. 1887, c. 116, s. 76.

Opinion of
Court, how far
conclusive.

Imp. 38 & 39
V. c. 87, s. 75.

94. The opinion of any Court to whom any case is referred by the Master of Titles shall be conclusive on all the parties to such case, unless the Court before whom the case is heard permits an appeal to be had. R. S. O. 1887, c. 116, s. 77.

Persons under Disability.

Intervention
of Court in
case of incap-
acitated per-
sons.

Imp. 38 & 39
V. c. 87, s. 76.

95. Where any infants, idiots, lunatics, persons of unsound mind, persons absent from Canada, or persons yet unborn are interested in the land in respect of the title to which a question arises as aforesaid, any person interested in the land may apply to the Court, for a direction that the opinion of the Court to whom the case is referred under this Act shall be conclusively binding on such infants, idiots, lunatics, persons of unsound mind, persons absent from Canada, or unborn persons. R. S. O. 1887, c. 116, s. 78.

Power of
Court to bind
interests of
incapacitated
persons.

Imp. 38 & 39
V. c. 87, s. 77.

96. The Court shall hear the allegations of all parties appearing before it. It may disapprove altogether, or may approve, either with or without modification, of the directions of the Master of Titles in respect to any case referred as to the title of land. The Court may also, if necessary, appoint a guardian or other person to appear on behalf of any infants, idiots, lunatics, persons of unsound mind, persons absent from Canada, or unborn persons; and if the Court is satisfied that the interests of the persons labouring under disability, absent, or unborn, will be sufficiently represented in any case, it shall make an order declaring that all persons, with the exceptions (if any) named in the order, are to be

conclusively bound; and thereupon all persons, with such exceptions (if any) as aforesaid, shall be conclusively bound by any decision of the Court having cognizance of the case in which such persons are concerned. R. S. O. 1887, c. 116, s. 79.

97.—(1) In case any person who, if not under disability might have made any application, given any consent, or done any act, or been party to any proceeding under this Act, is a minor, an idiot, or a lunatic, the guardian of the minor, or committee of the estate of the idiot or lunatic, may make such application, give such consent, do such act, and be party to such proceeding as such person might, if free from disability, have made, given, done or been party to, and shall otherwise represent such person for the purposes of this Act.

Where any party is a minor or lunatic, guardian, etc., may act.
Imp. 38 & 39
V. c. 87, s. 88.

(2) If the minor has no guardian, or the idiot or lunatic has no committee of his estate, or if persons yet unborn are interested, the official guardian *ad litem* shall act with like power, or the Master of Titles may appoint a person with like power to act for the minor, idiot, lunatic, or person yet unborn. R. S. O. 1887, c. 116, s. 90.

Official guardian to act if no guardian, etc.; or Master may appoint some person.

As to Land Certificates, Office Copies of Leases, and Certificates of Charge.

98. If any land certificate, or office copy of a registered lease, or certificate of charge is lost, mislaid, or destroyed, the Master of Titles may, upon being satisfied of the fact of such loss, mislaying, or destruction, grant a new land certificate, or office copy, or certificate of charge, in the place of the former one. R. S. O. 1887, c. 116, s. 80.

Loss of land certificate, or certificate of charge, or office copy of lease.
Imp. 38 & 39
V. c. 87, s. 78.

99. The Master of Titles may, upon the delivery up to him of a land certificate or of an office copy of a registered lease or of a certificate of charge, grant a new land certificate or office copy of a lease or certificate of charge in the place of the one delivered up. R. S. O. 1887, c. 116, s. 81.

Renewal of land certificate, or certificate of charge, or office copy of lease.
Imp. 38 & 39
V. c. 87, s. 79.

100. A land certificate or certificate of charge shall be *prima facie* evidence of the several matters therein contained, and the office copy of a registered lease shall be evidence of the contents of the registered lease. R. S. O. 1887, c. 116, s. 82.

Land certificate, certificate of charge, and office copy of lease to be evidence.
Imp. 38 & 39
V. c. 87, s. 80.

101. Subject to any registered estates, charges, or rights the deposit of the land certificate in the case of freehold land, and of the office copy of the registered lease in the case of leasehold land, shall, for the purpose of creating a lien on the land to which such certificate or lease relates, be deemed equivalent to a deposit of the title deeds of the land. R. S. O. 1887, c. 116, s. 83.

Effect of deposit of land certificate, or of office copy of lease.
Imp. 38 & 39
V. c. 87, s. 81.

Special Hereditaments.

Registry of
special here-
ditaments.
Imp. 38 & 39
V. c. 87, s. 82.

102. The Master of Titles may register the owner of any incorporeal hereditament of freehold tenure, enjoyed in gross, also the owner of any mines or minerals where the ownership of the same has been severed from the ownership of the land, in the same manner and with the same incidents in and with which he is by this Act empowered to register land, or as near thereto as circumstances admit. R. S. O. 1887, c. 116, s. 84.

General Provisions.

Enactments as
to registration.
Imp. 38 & 39
V. c. 87 s. 83.

103. The following enactments shall be in force with respect to registration of title:—

Trusts.

1. There shall not be entered on the register or be receivable by the Master of Titles, any notice of any trust, express, implied, or constructive. Describing the owner of any freehold or leasehold land or of any charge as a trustee, whether the beneficiary or object of the trust is mentioned or not, shall not be deemed a notice of a trust within the meaning of this provision, nor shall such description impose upon any person dealing with such owner, the duty of making any enquiry as to the power of the owner in respect of the land or charge or the money secured by the charge, or otherwise; but (subject to the registration of any caution or inhibition) such owner may deal with the land or charge as if such description had not been inserted; R. S. O. 1887, c. 116, s. 85. (1).

Undivided
shares.

2. No person shall be registered as owner of any undivided share in any land or charge apart from the other share or shares. The share of each owner may be stated, and where the extent of his interest appears in the register, or by the statement of his co-owners he may transfer or charge his share.

3. In case the number of persons who may be registered as the owners of the same land or charge shall be limited by a Rule, a number of persons exceeding the number prescribed shall not be registered as owners of such land or charge; and if the number of persons shewing title exceeds the prescribed number, such of them not exceeding the prescribed number as may be agreed upon, or as the Master of Titles in case of difference decides, shall be registered as owners. R. S. O. 1887, c. 116, s. 85 (2); 52 V. c. 20, s. 2. See Rules of 19th July 1897, No. 45.

4. Upon the occasion of the registry of two or more persons as owners of the same land or of the same charge, an entry may, with their consent be made on the register, to the effect that when the number of such owners is reduced below a certain specified number, no registered disposition of such land or charge shall be made, except under the order of the Court;

5. In such a case the words "No survivorship" in the entry shall be construed to mean that in case any one of the owners should die, no registered disposition of the land or charge shall be made except under order of the Court ;

6. Registered land shall be described in such manner as the Master of Titles thinks best calculated to secure accuracy, but such description shall not be conclusive as to the boundaries or extent of the registered land ;

7. No alteration shall be made in the registered description of land, except under the order of the Court, or under section 122 of this Act, or by way of explanation, or under Rules of Court ; but this provision shall not be construed to extend to registered dealings with registered land in separate parcels, although such land was originally registered as one parcel. R. S. O. 1887, c. 116, s. 85. (3-6).

104.—(1) Where any land is about to be registered, or any registered land is about to be transferred to a purchaser for valuable consideration, there may be registered as annexed thereto, subject to general rules and in the prescribed manner, a condition or covenant that such land or any specified portion thereof is not to be built on, or is to be or not to be used in a particular manner, or any other condition or covenant running with or capable of being legally annexed to land.

(2) The first owner and every transferee, and every other person deriving title from him, shall be deemed to be affected with notice of such condition or covenant ; nevertheless, any such condition or covenant may be modified or discharged by order of the Court, on proof to the satisfaction of the Court that the modification will be beneficial to the persons principally interested in the enforcement of the condition or covenant. R. S. O. 1887, c. 116, s. 86.

105. All the provisions of *The Trustee Act* which are not inconsistent with the provisions of this Act shall apply to land and charges registered under this Act, but this enactment shall not prejudice the applicability to such land and charges of any provisions of such Act relating to land or choses in action. R. S. O. 1887, c. 116, s. 87.

106. The Master of Titles shall not, nor shall any person acting under his authority, or under any order or general rule made in pursuance of this Act, be liable to any action, suit, or proceeding for or in respect of any act or matter *bona fide* done or omitted to be done in the exercise or supposed exercise of the powers of this Act, or of any order or general rule made in pursuance of this Act. R. S. O. 1887, c. 116, s. 88.

Instruments need not be Sealed.

Charges and transfers may be made without seal.

107. Notwithstanding the provisions of any statute, or any rule of law, any charge or transfer of land registered under this Act may be duly made under a charge or transfer without seal. 52 V. c. 20, s. 3.

Married Women.

Execution of instruments by married women.

108. A married woman shall for the purposes of this Act, be deemed a *feme sole*, and may execute without seal any bar of dower or other instrument required under this Act. R. S. O. 1887, c. 116, s. 89.

Plans.

Delivery of plans to municipal treasurers.

109. Every person who under this Act, deposits with the Master or Local Master of Titles a plan or map of any survey or subdivision of land made by such person for the purpose of selling or conveying the same in lots, or of any alteration of a previous survey or division, shall at the same time deposit with the said Master or Local Master a duplicate of such plan or map, and the Master or Local Master shall endorse thereon a certificate showing the number of such plan or map and the date when the duplicate original thereof was filed with him, and the same shall be delivered by the Master or Local Master to the treasurer, or assessment commissioner of the local municipality in which said land is situate, upon request and without any fee being chargeable in respect thereof; and the Master or Local Master of Titles shall not file or register any plan or map unless and until a duplicate thereof is deposited in accordance with the previous provisions hereof. 56 V. c. 22, s. 15.

Filing plans with roads less than 66 feet in width.

110. No map or plan shall be filed in the office of the Master of Titles at Toronto or in the office of any Local Master of Titles upon which a road, street or highway less than 66 feet wide is laid out unless and until the assent of the proper municipal council is registered therewith where such assent is by law necessary. 55 V. c. 24, s. 1.

Amendment of plans.

111. In no case shall any plan or survey, although filed and registered in an office of Land Titles, be binding on the person so filing or registering the same, or upon any other person, unless some sale has been made according to such plan or survey; and in all cases amendments or alterations of any such plan or survey may be ordered to be made at the instance of the person filing or registering the same or his assigns, by the High Court, or by a Judge of the said Court; or, where the lands are not in the County of York or City of Toronto, by the Judge of the County or District Court of the county or district in which the lands lie; and where the lands are in the County of York or City of Toronto by the Master of Titles, if,

on application for the purpose duly made, and upon hearing all parties concerned, it is thought just so to order, and upon such terms and conditions as to costs and otherwise as may be deemed just and expedient. An appeal shall lie from any such order to the Court of Appeal. 52 V. c. 20, s. 7.

112. Where all the lots on any plan of subdivision filed in a registry office are registered under this Act, the Master or Local Master of Titles may require the Registrar to deliver the plan to such Master to be filed in his office; and the Registrar shall thereupon deliver the same, taking a receipt therefor. 52 V. c. 20, s. 8.

Transfer of plans from registry offices.

As to Notices.

113.—(1) Every person whose name is entered on the register as owner of land or of a charge, or as cautioner, or as entitled to receive any notice, or in any other character, shall furnish to the Master of Titles a place of address in this Province, and may from time to time substitute some other address in the Province for that originally furnished.

Address of persons on register.
Imp. 38 & 39
V. c. 87, s. 89.

(2) In case any such person fails to furnish a place of address for service as aforesaid, a notice sent through the post addressed to such person at the place named in the registered instrument under which he claims, as his place of residence, shall be sufficient, unless the Master of Titles otherwise directs. R. S. O. 1887, c. 116, s. 91.

114. Every notice by this Act required to be given to any person shall be served personally, or sent through the post in a registered letter marked outside "Office of Land Titles," and directed to such person at the address (or last address, as the case may be) furnished to the Master of Titles, and unless returned, shall be deemed to have been received by the person addressed within such period, not less than seven days exclusive of the day of posting, as may be prescribed. R. S. O. 1887, c. 116, s. 92.

Service of notices.
Imp. 38 & 39
V. c. 87, s. 90.

115. The envelope containing any notice under this Act shall have printed thereon a request in the prescribed manner to the Postmaster or Postmaster-General for the return thereof to the office of Land Titles in case the person to whom the notice is addressed cannot be found; and on the return of any letter containing any notice, the Master of Titles shall act in the matter requiring the notice to be given in manner prescribed. R. S. O. 1887, c. 116, s. 93.

Return of notices by post-office.
Imp. 38 & 39
V. c. 87, s. 91.

116. A purchaser for valuable consideration shall not be affected by the omission to send any notice by this Act directed to be given, or by the non-receipt thereof. R. S. O. 1887, c. 116, s. 94.

Purchasers for value not affected by omission to send notices.
Imp. 38 & 39
V. c. 87, s. 92

Specific Performance.

Power of court in action for specific performance.

Imp. 38 & 39
V. c. 87, s. 93.

117. Where an action is instituted for the specific performance of a contract relating to registered land, or a registered charge, the Court having cognizance of the action may by summons, or by such other mode as it deems expedient, cause all or any parties who have registered estates or rights in the land or charge, or have entered up notices, cautions or inhibitions against the same, to appear in the action, and shew cause why the contract should not be specifically performed; and the Court may direct that any order made by the Court in the action shall be binding on such parties or any of them. R. S. O. 1887, c. 116, s. 95.

Costs in action for specific performance.

Imp. 38 & 39
V. c. 87, s. 94.

118. All costs incurred by any parties so appearing in an action to enforce against a vendor specific performance of his contract to sell registered land or a registered charge, shall be taxed as between solicitor and client, and, unless the Court otherwise orders, be paid by the vendor. R. S. O. 1887, c. 116, s. 96.

Rectification of the Register.

Establishment of adverse title to land.

Imp. 38 & 39
V. c. 87, s. 95.

119. Subject to any estates or rights acquired by registration in pursuance of this Act, where any Court of competent jurisdiction has decided that any person is entitled to any estate, right, or interest in or to any registered land or charge, and as a consequence of such decision the Court is of opinion that a rectification of the register is required, the Court may make an order directing the register to be rectified in such manner as it thinks just. R. S. O. 1887, c. 116, s. 97.

Register to be rectified under order of court.

Imp. 38 & 39
V. c. 87, s. 96.

120. Subject to any estates or rights acquired by registration in pursuance of this Act, if any person is aggrieved by any entry made, or by the omission of any entry from the register under this Act, or if default is made or unnecessary delay takes place in making any entry in the register, any person aggrieved by such entry, omission, default, or delay, may apply to the Court in the prescribed manner for an order that the register may be rectified; and the Court may either refuse the application with or without costs, to be paid by the applicant, or may if satisfied of the justice of the case, make an order for the rectification of the register. R. S. O. 1887, c. 116, s. 98.

Master to obey orders of court.

Imp. 38 & 39
V. c. 87, s. 97.

121. The Master of Titles shall obey the order of any competent Court in relation to any registered land, on being served with the order or an official copy thereof. R. S. O. 1887, c. 116, s. 99.

Entry of caution by Master in case of error.

122.—(1) The Master may *sua sponte* and without affidavit enter a caution to prevent the dealing with any registered land

in any case in which it appears to him that an error has been made in any entry by mis-description of such land, or otherwise.

(2) Subject to rules under this Act the Master may, before the receipt of any conflicting instrument, or after notifying all persons interested, upon such evidence as appears to him sufficient, correct errors and supply omissions in certificates of title, or in the register, or in any entry therein, and may call in the outstanding certificate of title for that purpose. R. S. O. 1887, c. 116, s. 100.

Correction of errors.

123. Where land has been registered under this Act, and the Commissioner of Crown Lands under section 27 of *The Public Lands Act* directs an incorrect patent to be cancelled and a correct one to be issued in its stead, the Master shall upon receipt of the subsequent patent, in case no conflicting instrument has been received, amend the entry in the register to accord with the said amending patent, or in case a conflicting instrument has been received, the Master, after notifying all persons interested, may make such amendment. 56 V. c. 22, s. 10 (1), part,

Correction, of errors in patents after registration. Rev. Stat., c. 28.

As to Fraud.

124. Subject to the provisions in this Act contained with respect to registered dispositions for valuable consideration, any disposition of land or of a charge on land which if unregistered would be fraudulent and void, shall, notwithstanding registration, be fraudulent and void in like manner. R. S. O. 1887, c. 116, s. 101.

Fraudulent dispositions. Imp. 38 & 39 V. c. 87, s. 98.

125. If in the course of any proceeding under this Act, any person acting either as principal or agent, shall, knowingly and with intent to deceive, make or assist, or join in or be privy to the making of any material false statement or representation, or suppress, conceal, or assist or join in or be privy to the suppression, withholding or concealing any material document, fact or matter of information, every person so acting shall be deemed to be guilty of an offence under this Act, and on conviction shall be liable to be imprisoned for a term not exceeding two years, with or without hard labour, or to be fined such sum as the Court by which he is convicted shall award. Any certificate of title obtained by means of such fraud or falsehood, shall be null and void for or against all persons other than a purchaser for valuable consideration without notice. R. S. O. 1887, c. 116, c. 102.

Suppression of deeds and evidence. Imp. 38 & 39 V. c. 87, s. 99.

126. If any person fraudulently procures, attempts to fraudulently procure, or is privy to the fraudulent procurement of any entry on the register, or of any erasure from the register or alteration of the register, such person shall be guilty of an offence under this Act, and upon conviction shall be liable to

Certain fraudulent acts declared to be offences. Imp. 38 & 39 V. c. 87, s. 100.

imprisonment for any term not exceeding two years, with or without hard labour, or to be fined such sum not exceeding \$500 as the Court before which he is tried may award; and any entry, erasure, or alteration so made by fraud, shall be void as between all parties or privies to the fraud. R. S. O. 1887, c. 116, s. 103.

False declarations.

Imp. 38 & 39
V. c. 87, s. 101.

127. If any person in any affidavit or affirmation required or authorized to be made for any purpose under this Act, or by any order or general rules made in pursuance thereof, wilfully makes a false statement in any material particular, he shall be guilty of an offence under this Act, and upon conviction shall be liable to be imprisoned with or without hard labour, for a term not exceeding two years, or to be fined such sum not exceeding \$500, as the Court before which he is tried may award. R. S. O. 1887, c. 116, s. 104.

Saving of civil remedy.

Imp. 38 & 39
V. c. 87, s. 102.

128. No proceeding or conviction for any offence under this Act shall affect any remedy which any person aggrieved may be entitled to. R. S. O. 1887, c. 116, s. 105.

Saving of obligation to make discovery.

Imp. 38 & 39
V. c. 87, s. 103.

129. Nothing in this Act contained shall entitle any person to refuse to answer any question or interrogatory in any civil proceeding; but no answer to any such question, or interrogatory shall be admissible in evidence against such person in any criminal proceeding in respect of which this Province has legislative authority. R. S. O. 1887, c. 116, s. 106.

ASSURANCE FUND.

Assurance fund.

130.—(1) An Assurance Fund shall be formed for the indemnity of any persons who may happen to be deprived of land or some estate or interest therein by reason of the land being brought under the provisions of this Act, or by the registration of some other person as owner of the land or of such estate or interest therein, or by reason of any misdescription, omission or other error in a certificate of title or in any entry in the register. R. S. O. 1887, c. 116, s. 107 (1).

(2) In order to constitute such fund, there shall be paid on the first certificate of title granted under this Act in respect of any land with an absolute or qualified title in addition to all other fees, a sum equal to one-fourth of one per cent. of the value of the land and with a possessory title one-eighth of one per cent., but where such sum does not amount to \$1, the amount payable shall be \$1. R. S. O. 1887, c. 116, s. 107 (2); 52 V. c. 20, s. 9; 53 V. c. 32, s. 2.

(3) (Subject to any rules to be made under the authority of this Act), money payable under the preceding subsection shall be paid into Court, with the privity of the Accountant of the Supreme Court, and shall be placed to the

credit of an account to be intituled "Assurance Fund under the Land Titles Act," and shall be invested from time to time under the direction of the Court, and the interest or income derived therefrom shall be credited to the same account.

(4) Where the amount to be paid into the assurance fund is not more than \$10, no fee shall be payable for a direction to the bank to receive the same, and where such amount is payable in respect of a proceeding before a Local Master of Titles, the person desiring to pay the same may, at his own risk, transmit the amount by a money order, payable to "The Accountant of the Supreme Court at Toronto," in a registered letter addressed to the said Accountant, together with a requisition in the prescribed form.

(5) (Subject as aforesaid) the value of the land shall be ascertained for the purpose aforesaid by the oath or affirmation of the applicant, unless the Master of Titles dispenses therewith.

(6) (Subject as aforesaid) in case the oath or affirmation of the applicant is dispensed with, or in case the Master of Titles is not satisfied as to the correctness of the value stated by the oath or affirmation of the applicant or any other person, he may require the affidavit or certificate in that behalf of a sworn valuator: and such affidavit or certificate shall be conclusive.

(7) If the Master thinks fit to take from any applicant for a certificate of ownership security to indemnify the Assurance Fund against loss, he may do so, by taking a bond or covenant to Her Majesty, either with or without sureties or other security as he considers expedient. R. S. O. 1887, c. 116, s. 107 (3-7).

131. Where a Master in order to determine the amount to be paid into Court on account of the Assurance Fund in respect of any land, deems it necessary to require the valuation of a sworn valuator, the expense of obtaining such valuation as allowed by the Master shall be paid to the Master by the registered owner, and such payment shall be made before any dealing with the land is registered. 56 V. c. 22, s. 13. Expenses of valuation.

132.—(1) Any person wrongfully deprived of land, or of some estate or interest therein, by reason of the land being brought under this Act, or by reason of some other person being registered as owner, or by reason of any misdescription or other error in any certificate of title, or in any entry in the register, shall be entitled to recover what is just, by way of compensation or damages, from the person on whose application the erroneous registration was made, or who acquired the title through the fraud or error. Remedy of person wrongfully deprived of land.

(2) But this is not to be construed to render liable any purchaser or mortgagee *bona fide* for valuable consideration by reason of the vendor or mortgagor having been registered as

owner through fraud or error, or having derived from or through a person registered as owner through fraud or error, whether the fraud or error consists in a wrong description of the property or otherwise howsoever.

(3) In case the person so wrongfully deprived is unable by such means or otherwise to recover just compensation for his loss, he shall be entitled to have the same paid out of the Assurance Fund, so far as the fund may be sufficient for that purpose having reference to other charges thereon, provided that the application is made within six years from the time of having been so deprived; or, in the case of a person under the disability of infancy, lunacy or unsound mind, within six years from the date at which the disability ceased.

(4) The liability of the fund for compensation and the amount of compensation shall (subject to appeal as in other cases) be determined by the Master of Titles, unless the Court or Master of Titles on application directs some other way of ascertaining and determining the same. The costs of the proceedings shall be in the discretion of the Master of Titles or the Court, as the case may be.

(5) Where any sum has been paid out of the Assurance Fund on account of a person on whose application the erroneous registration was made, or who acquired the title through the fraud or error, the same may afterwards for the benefit of the fund be recovered from such person or his estate, by action in the name of the Master of Titles; and the Master's certificate of the payment out of the Assurance Fund shall be sufficient proof of the debt. R. S. O. 1887, c. 116, s. 108.

Valuation of
mining lands
where com-
pensation
claimed out of
Assurance
Fund.

133.—(1) Where any person makes a claim upon the Assurance Fund for compensation in respect of land which has been or shall be patented as mining land or in respect of any land the chief value of which consists in the ores, mines or minerals therein and it appears that such person is entitled to recover in respect of such land or of some interest therein, in determining the amount of compensation to be paid such person the entire value of land shall not be taken at a greater sum than eight hundred times the amount of the fees paid into the Assurance Fund in respect of the said land, either in the first instance or under the provision hereinafter contained.

(2) Where such fees or some part thereof were paid into the said fund in respect of other land in addition to that for which a claim is made as aforesaid without it appearing what amount was paid in respect of the particular piece of land with reference to which the claim is made as aforesaid, the fees so paid, or the portion thereof as to which the fact may not appear to be otherwise, shall be deemed to have been paid *pro rata* in accordance with the acreage or other superficial contents of the whole parcel or of the various parcels in respect of which the said fees were paid. 60 V. c. 21, s. 3.

134.—(1) Where any person taking a transfer or charge of any land coming within the provisions of the next preceding section is of opinion that a value to be determined under such section would not furnish a fair basis for compensation in case of loss he may with the privy of the Master of Titles of the county, city, town or district pay into Court to the credit of the Assurance Fund such further sum as shall with the amount previously paid into the Assurance Fund in respect of such land make up one-fourth of one per cent. of the value of the said land at the time of making the said payment, the said value to be determined in the manner provided by sections 130 and 131 of this Act. Additional payments into fund by transferor, etc.

(2) No such additional payment shall be made except by special leave of the said Master, unless the same is paid within three months of the registration of the transfer or charge under which such person claims.

(3) No such payment shall affect the valuation of the land where the error which gives the right to compensation was committed prior to such payment being made. 60 V. c. 21, s. 4.

135. Wherever any additional payment is made under the next preceding section, the Master shall enter a memorandum of the particulars thereof in the margin of the entry of ownership, and shall in such entry show the total amount which has been paid into the said fund in respect of such land by means of such additional payment and any former payment or payments. 60 V. c. 21, s. 5. Entry to be made of additional payment.

WITHDRAWING LAND FROM THE REGISTRY.

136.—(1) Where after land has been registered under this Act, special circumstances appear or subsequently arise, which make it inexpedient that the land should continue under the Act, the owner may apply in the prescribed manner to the Master of Titles for the withdrawal of the land from the said Act. Application to withdraw registered land.

(2) In case the owner proves before the Master of Titles that all persons interested in the land proposed to be withdrawn, consent to its withdrawal, and in case he satisfies the Master that special circumstances exist which render the withdrawal of such land or a portion thereof expedient, the Master may issue his certificate describing the land or such portion thereof as the consent covers and as the Master deems proper, in such a manner that the said certificate can be properly registered in the registry office for the registry division in which the land is situate, and upon the certificate being issued the said Act shall cease to apply to the land described therein, and the land shall thereafter be subject to the ordinary laws relating to real estate and to the registry laws. R. S. O. 1887, c. 116, s. 109 (1, 2). Certificate by Master.

(3) This section shall also apply to the Local Masters of Titles, but the certificate in such case shall not be valid unless approved of section.

and countersigned by the Inspector. R. S. O. 1887, c. 116, s. 109 (3); s. 139 (5).

Registration
of certificate.

(4) Upon the production of the certificate to the registrar of lands and payment of a fee of \$1, the same shall be duly registered. R. S. O. 1887, c. 116, s. 109 (4).

ADMINISTRATION OF LAW AND MISCELLANEOUS.

Office of Land Registry.

Seal of office.
Imp. 38 & 39
V. c. 87, s. 107.

137. There shall be a seal for the office of Land Titles. R. S. O. 1887, c. 116, s. 110.

Master to
frame and pro-
mulgate
forms.
Imp. 38 & 39
V. c. 87, s. 108.

138. The Master of Titles shall conduct the business of registering land under this Act; and he shall frame and cause to be printed and promulgated, such forms and directions as he may deem requisite or expedient for facilitating proceedings under this Act. R. S. O. 1887, c. 116, s. 111.

Administra-
tion of oaths.

Rev. Stat.
c. 136.

139. The Master of Titles, or any officer of the office of Land Titles authorized by him in writing, or any person authorized for a like purpose under *The Registry Act*, may administer an oath or affirmation for any of the purposes of this Act. R. S. O. 1887, c. 116, s. 112.

Depositions
taken before
special exami-
ners, may be
used before
Master of
Titles.

140. A Master of Titles in any application made to him may act upon depositions or examinations taken before any of the special examiners appointed by the High Court, who may administer the requisite oath to any party or witness whose deposition or cross-examination the master has requested such examiner to take, and any such deposition or examination may be taken in shorthand, and any *viva voce* evidence given before the Master may be taken down by a sworn shorthand writer if the examining party so desires. 56 V. c. 22, s. 12.

Power of
Master to
summon wit-
nesses.

Imp. 38 & 39
V. c. 87, s. 109.

141.—(1) The Master of Titles may, by summons under the seal of the office, require the attendance of all such persons as he may think fit in relation to the registration of any title and may in the summons require any person to produce for inspection any documents, deeds, instruments or evidences of title to the production of which the applicant or any trustee for him is entitled.

(2) He may also, by a like summons, require any person having the custody of any map, survey, or book made or kept in pursuance of any Act of Parliament to produce such map, survey, or book for his inspection.

(3) He may examine upon oath any person appearing before him and administer an oath accordingly; and he may allow to every person summoned by him the reasonable charges of his attendance.

(4) Any charges allowed by the Master of Titles in pursuance of this section shall be deemed to be charges incurred in or about proceedings for registration of land, and may be dealt with accordingly.

(5) If any person disobeys any order of the Master of Titles made in pursuance of this section, the Master may certify such disobedience to the Court; and thereupon such person, subject to appeal, may be punished by the Court in the same manner in all respects as if the order made by the Master of Titles were the order of the Court. R. S. O. 1887, c. 116, s. 113.

142.—(1) If any person, after the delivery to him of the summons as aforesaid, or of a copy thereof, wilfully neglects or refuses to attend in pursuance of the summons, or to produce such maps, deeds, instruments, evidences of title, surveys, books, or other documents as he may be required to produce under this Act, or to answer upon oath or otherwise such questions as may be lawfully put to him by the Master of Titles under the powers of this Act, he shall incur a penalty not exceeding \$50, to be recovered on summary conviction. Non-attendance or refusal to answer questions. Imp. 38 & 39 V. c. 87, s. 110.

(2) No person shall be required to attend in obedience to any summons, or to produce such documents as aforesaid, unless the reasonable charges of his attendance and of the production of the documents be paid or tendered to him. R. S. O. 1887, c. 116, s. 114.

143. The treasurer of the proper municipality shall furnish to any person requiring the same in respect of lands registered or with reference to which an application for registration is pending, a certificate of payment of taxes, charges, rates and assessments, in the prescribed form, or as nearly corresponding thereto as the information given by his books of office will allow, and the certificate shall be binding upon the municipality. Certificates as to taxes. R. S. O. 1887, c. 116, s. 115.

144.—(1) In case the Lieutenant-Governor sees occasion, in consequence of the illness or absence of the Master of Titles or of a Local Master, or for any other cause, he may appoint a person to act as the Deputy *pro tem.* of the Master or Local Master, and such Deputy, while so acting, shall have all the powers of the Master or Local Master for whom he is appointed. Appointment of deputy of Master. R. S. O. 1887, c. 116, s. 116.

(2) This section is intended to authorize the appointment of a person who shall have power to act from time to time as the contingency arises, if the Lieutenant-Governor in Council thinks fit. 56 V. c. 22, s. 14.

145. The Master of Titles, before he enters upon the oath of office, execution of his office, shall take, before some Judge of the

Supreme Court of this Province, the oath of office in the form following:—

I, *A. B.*, do solemnly swear (*or affirm*) that I will faithfully, and to the best of my ability, perform the office and duties of Master of Titles.

R. S. O. 1887, c. 116, s. 117.

Bond of
Master.

146. Before any Master of Titles is sworn into office, he, and two or more sufficient sureties, shall enter into a joint and several bond in writing under their hands and seals to Her Majesty, in a penal sum to be determined by the Lieutenant-Governor in Council, which bond shall be subject in all respects to the approval of the Lieutenant-Governor in Council, and shall be conditioned for the true and faithful performance by the Master of his duty in respect to all things directed to be done by or required of him by this Act or any law in that behalf. R. S. O. 1887, c. 116, s. 118.

Sureties to
justify.

Custody of
bonds.

147. The sureties in the bond shall justify under oath, and the execution by the Master of Titles and his sureties shall be verified under oath by a subscribing witness; and the bond with the affidavits of justification appended, shall be forthwith transmitted to the Provincial Secretary, and shall be filed in his office after being approved by the Lieutenant-Governor in Council. R. S. O. 1887, c. 116, s. 119.

New bonds
when re-
quired.

148. The Master of Titles shall, whenever required by the Provincial Secretary, execute a new bond in the form and to the effect provided in the next preceding two sections, or furnish such other security as may be deemed expedient. R. S. O. 1887, c. 116, s. 120.

Master, etc.,
not to act as
agent, etc.,
of investors.

149.—(1) No Master of Titles, officer, or clerk appointed under this Act, shall, directly or indirectly, act as the agent of any corporation, society, company, person or persons investing money and taking securities on real estate; nor shall such Master of Titles, officer or clerk advise for any fee or reward, or otherwise, upon titles to land, or practise as a conveyancer; nor shall he carry on or transact within the office any business or occupation whatever other than his duties as such Master of Titles, officer or clerk, or as holder of some other office under the Provincial Government. R. S. O. 1887, c. 116, s. 121.

(2) This section shall apply to every Local Master of Titles, but as applied to him, the words “real estate” and “land” shall mean real estate or land within the county, city, town or district for which he is Local Master of Titles. 56 V. c. 22, s. 16. 60 V. c. 3, s. 3.

Right to Inspect Registry.

Right to
inspect
documents.

150. Subject to such regulations and exceptions and to the payment of such sums as may be fixed by general rules, any

person registered as owner of any land or charge, and any person authorized by any such owner, or by an order of the Court, or by general rule, may inspect and make copies of and extracts from any document in the custody of the Master of Titles relating to such land or charge. No other person save as aforesaid shall be entitled to do so. R. S. O. 1887, c. 116, s. 122. Imp. 38 & 39
V. c. 87, s. 104.

Rules.

151. The Rules in the Schedule to this Act, shall, until annulled or altered under the authority of the next section, regulate the proceedings as to all matters to which such Rules extend. R. S. O. 1887, c. 116, s. 123. Rules.

152. Subject to the provisions of this Act, the Lieutenant-Governor in Council, or the Judges of the Supreme Court under sections 122 and 125 of *The Judicature Act*, (which are to be read as applying to this Act,) may, with the advice and assistance of the Master of Titles, from time to time make, and after making may rescind, annul, or add to, General Rules in respect of all or any of the following matters; that is to say— Power to make
general rules.
Rev. Stat.
c. 51.
Imp. 38 & 39
V. c. 87, s. 111.

1. The mode in which the register is to be made and kept;
2. The forms to be observed, the precautions to be taken, the instruments to be used, the notices to be given, and the evidence to be adduced in all the proceedings before the Master of Titles or in connection with the registration, and in particular with respect to the reference to counsel of any title to land proposed to be registered with an absolute title;
3. The custody of any instruments from time to time coming into the hands of the Master of Titles, with power to direct the destruction of any such instruments where they have become altogether superseded by entries in the register or have ceased to have any effect;
4. The duties which are to be performed by the Master of Titles and other officers employed; and what acts of the Master of Titles may be done by other officers;
5. The costs to be charged by solicitors in or incidental to or consequential on the registration of land, or any other matter required to be done for the purpose of carrying this Act into execution, with power to require such costs to be payable by commission, percentage, or otherwise, and to bear a certain proportion to the value of the land registered, or to be determined on such other principle as may be thought expedient;
6. The taxation of such costs and the persons by whom such costs are to be paid;
7. Any matter by this Act directed or authorized to be prescribed;

8. Any other matter or thing, whether similar or not to those above mentioned, in respect of which it may be expedient to make rules for the purpose of carrying this Act into execution. R. S. O. 1887, c. 116, s. 124.

Effect of rules.

Imp. 38 & 39
V. c. 87, s. 111.

153. Any rules made in pursuance of the preceding section shall be deemed to be within the powers conferred by this Act, and shall be of the same force as if enacted in this Act, and shall be judicially noticed. R. S. O. 1887, c. 116, s. 125.

Rules respecting fees.

Imp. 38 & 39
V. c. 87, s. 112.

154. The Lieutenant-Governor in Council or the Judges aforesaid may from time to time make, and after making revoke, alter or add to rules with respect to the amount of fees payable under this Act, and may have regard to the following matters :

1. In the case of the registration of land or of any transfer of land on the occasion of a sale,—to the value of the land, as determined by the amount of purchase money ;

2. In the case of the registration of land, or of any transfer of land on the occasion of a sale,—to the value of the land, to be ascertained in such manner as may be prescribed ;

3. In the case of registration of a charge or of any transfer of a charge,—to the amount of such charge. R. S. O. 1887, c. 116, s. 126.

Fees.

Rev. Stat.
c. 136.

155.—(1) Subject to rules, the fees payable in respect of such business in the office of the Master of Titles as is analogous to the business under *The Registry Act*, shall be the same as the fees payable to the registrar under the said Act ; and all other fees and costs, whether in respect of business done by the Master of Titles or by other officers, or by solicitors under this Act, shall be the same as nearly as may be as are payable in case of like proceedings in the High Court.

Stamps to be affixed to registered transfer or charge.

(2) The stamps for all fees payable on a land certificate or a certificate of charge shall be affixed to the registered transfer or charge and not to the certificate, and all stamps payable in respect of registrations shall be affixed to the instruments registered and not to the entry in the register. R. S. O. 1887, c. 116, s. 127.

Assignment of duties to particular judges.

Imp. 38 & 39
V. c. 87, s. 115.

156. The Judges of the High Court may from time to time assign the duties vested in the Court in relation to matters under this Act to any particular Judge or Judges of that Court. R. S. O. 1887, c. 116, s. 128.

Appeals from Master.

157. An appeal shall lie from any act, order, or decision of the Master of Titles under this Act to the High Court, and from that Court to the Court of Appeal as in cases within the ordinary jurisdiction of the Court. R. S. O. 1887, c. 116, s. 129.

158. Any person aggrieved by an order made under this Act by the High Court may appeal within the prescribed time, in the same manner and with the same incidents in and with which orders made by the High Court on cases within the ordinary jurisdiction of such Court may be appealed from. Appeal from High Court. Imp. 38 & 39 V. c. 87, s. 117. R. S. O. 1887, c. 116, s. 130.

159. No application, order, affidavit, certificate, registration or other proceeding shall be invalid by reason of any mistake not affecting the substantial justice of the proceeding. Proceedings not void for want of form. R. S. O. 1887, c. 116, s. 131.

EXTENSION OF ACT TO OTHER LOCALITIES AND EXPENSES.

160.—(1) The municipal council of a county, or of a city or town separated from the county for municipal purposes, may pass a by-law declaring it expedient that the provisions of this Act be extended to the said county, city or town. Adoption* of Act by municipality.

(2) The municipal corporations of the County of York and City of Toronto and of any county, city or town which has passed or shall pass a by-law to the effect aforesaid, shall provide proper fire-proof and other accommodation for an office of Land Titles; and, so far as the expenses of the office are not covered by the fees collected thereat, the corporation shall pay the same, including the salary of the Master of Titles of the locality, and all necessary and proper books, stationery, furniture, and lighting, cleaning and heating of the office, and attendance, and other matters and things incident to the proper conduct of the business of the office. County of York, City of Toronto and other places where Act in force to supply accommodation, etc.

(3) Where this Act is extended to a county which includes a city or town separated from the county for municipal purposes, the city or town and county shall share the expenses to be borne by the locality under this Act, in such proportions as may be decided by arbitration under *The Municipal Act*, in case the councils interested do not agree in respect thereto. Rev. Stat. c. 223. R. S. O. 1887, c. 116, s. 132.

161.—(1) Where a by-law to the effect aforesaid has been passed, and proper accommodation has been provided, either in connection with the county registry office or at some other convenient place, to the satisfaction of the Inspector hereinafter mentioned, and approved by the Lieutenant-Governor in Council, the Lieutenant-Governor may, by his proclamation, extend the operation of this Act, as amended by any subsequent Acts, to such county, city or town, from a day to be named in the proclamation. Proclamation extending Act to municipality.

(2) The fact of the conditions precedent to the issue of such proclamation having been performed, shall be conclusively established by the issue of the proclamation. R. S. O. 1887, c. 116, s. 133.

Surplus fees under Rev. Stat., c. 136 to be applied in defraying expenses of Land Titles Office.

162. Where this Act applies to a county, city or town entitled to receive money under sections 126 to 129 of *The Registry Act*, the registrar shall pay to the Treasurer of Ontario, to be applied, so far as necessary, in defraying the salary of the Master and other expenses of the office, the money payable either directly or indirectly, to the county, city or town under the said Act, and the Treasurer shall pay the balance to the county, city or town; and in case the amount so paid to the Treasurer aforesaid by the registrar is not sufficient, or in case nothing is payable by the registrar, the residue of such salary, or the whole of such salary (as the case may be), shall be made good to the Province by the corporation of the county, city or town. R. S. O. 1887, c. 116, s. 134.

LOCAL MASTERS OF TITLES.

Local Masters of Titles *ex officio*.
Rev. Stat.
c. 135.

163. Where at the time of the issue of a proclamation under section 161 there is a Referee of Titles under *The Quieting Titles' Act*, residing in the locality, such referee shall *ex-officio* be the first Local Master of Titles therefor, unless he practises as a barrister or solicitor, or is a County Judge, and he shall hold the office during the pleasure of the Lieutenant-Governor in Council. R. S. O. 1887, c. 116, s. 135.

Appointment of Local Masters.

164.—(1) Save as aforesaid, the Lieutenant-Governor may appoint a Master of Titles for any locality in which the Act is in force, to be styled "The Local Master of Titles" for the county, city, town or district, as the case may be, such officer to hold office during pleasure as aforesaid.

Qualification.

(2) The person appointed may, in the discretion of the Lieutenant-Governor, be a County Judge, a barrister or solicitor (whether practising or not), or a registrar, if the person is deemed by the Lieutenant-Governor in Council to be qualified for the office of Master of Titles.

Salary.

(3) The Local Master of Titles shall be paid by salary for his services in that capacity, such salary to be fixed from time to time, with reference to the amount or probable amount of the business, on the report of the Inspector, subject to approval by the Lieutenant-Governor in Council. The Order in Council is to be laid before the House of Assembly, as provided in respect of Orders in Council under section 187 of *The Judicature Act*.

Rev. Stat.
c. 51.

Security.

(4) Every Local Master of Titles, before he enters upon the execution of his office, shall give security for the true and faithful performance of his duty as such Master, in such an amount as may be determined by the Lieutenant-Governor in Council, and in such form as he may approve of, and shall take, before a Judge of the Supreme Court of Judicature of this Province, or before some person authorized by the Lieutenant-Governor to administer oaths and declarations, an oath of office similar to that required to be taken by the Master of Titles, and such oath shall be transmitted to the Provincial Secretary.

(5) The Local Master of Titles shall, whenever required by the Provincial Secretary, give new security for the purposes specified in this section, to be approved by the Lieutenant-Governor in Council. R. S. O. 1887, c. 116, s. 136.

New security to be given when required.

DUTIES AND POWERS OF LOCAL MASTERS.

165. Subject to the provisions of this Act, every Local Master of Titles shall, in respect to titles of land situate within the territory for which he is appointed, have all the authority and perform all the duties which, in the county of York, are performed by the Master of Titles, subject to appeal in the same manner. R. S. O. 1887, c. 116, s. 137.

Master's authority and duties.

First Registration.

166.—(1) Where, upon an application for first registration, the Local Master of Titles finds that the applicant, or his nominee, is entitled to be registered, he is to sign a memorandum to that effect at the foot of the application, and is to transmit the same to the Inspector of Titles, with the deeds, evidence, and other papers before him, and a draft of the entry of ownership proposed to be made.

Local Master to transmit title deeds, etc., to Inspector.

(2) If the Inspector concurs in the opinion of the Local Master of Titles, he shall approve thereof and shall return the papers transmitted to him, and the Local Master of Titles may thereupon register the applicant, or his said nominee, as owner under this Act.

Proceedings where Inspector concurs in Master's finding.

(3) In case the Inspector does not concur in the opinion of the Local Master of Titles, he shall communicate his opinion to the Local Master of Titles, and shall cause such action to be taken as he deems expedient, and in case his objections are not removed by explanations or additional evidence, the applicant or his nominee shall not be registered, unless the Court on appeal, or on a case stated for its opinion, otherwise directs.

Proceedings where Inspector does not concur.

(4) If there is a contest upon the decision of the Inspector concurring in the Local Master's opinion, registration shall be delayed for ten days to enable anyone who so desires to appeal. R. S. O. 1887, c. 116, s. 139 (1-4).

Stay of proceedings in case appeal desired.

Subsequent Registration.

167. If on the application for the registration of an instrument after a first registration or of a transmission, the Local Master of Titles is unable to come to a clear conclusion as to

Submission of case to Inspector where Master in doubt.

the action which he should take, he shall delay making the required entry until he has stated the facts to the Inspector of Titles for his opinion. In submitting the case the Local Master shall state his own view and his reasons therefor. R. S. O. 1887, c. 116, s. 140.

INSPECTOR OF OFFICES OF LAND TITLES.

Appointment
of Inspector.

168.—(1) As soon as this Act applies to ten counties, cities or towns aforesaid, the Lieutenant-Governor may appoint an officer, to be called “The Inspector of Land Titles’ Offices.”

Duties.

(2) The Inspector shall (subject to rules as hereinafter mentioned) have the like powers and duties as an Inspector under *The Quieting Titles’ Act*, and as an Inspector under *The Registry Act*, respectively, and such other duties as may be required of him by rules to be made under the authority of this Act, or as he may be required by the Governor in Council to perform in respect of matters arising under the said Act.

Rev. Stat.
c. 135,
c. 136.

Salary.

(3) The salary of the Inspector, to be voted by the Legislature, and his travelling expenses, and all expenses of and incidental to his office, shall be paid by the Province, and shall be repaid to the Provincial Treasurer by the corporations of the localities in which this Act is from time to time in operation, and shall be paid in such proportions as after a report from the Inspector the Lieutenant-Governor in Council may determine.

Performance
of duties until
Inspector
appointed.

(4) Until an Inspector is appointed, the duties of the Inspector shall be performed by the Master of Titles, or by some other person authorized by the Lieutenant-Governor in Council, and the expenses of and incidental thereto shall, in like manner as is hereinbefore provided be repaid to the Provincial Treasurer.

Appeal from
Inspector.

(5) In all matters decided by the Inspector which are of like character as matters over which the Master of Titles has jurisdiction in the County of York, an appeal shall lie from any act, order or decision of the Inspector to the High Court, and from that Court to the Court of Appeal, as in cases within the ordinary jurisdiction of the Court; subject to any rules made in respect of such appeals. R. S. O. 1887, c. 116, s. 138.

REGISTRATION OF NEWLY PATENTED LANDS IN DISTRICTS.

Letters Patent
granting land
to be sent to
Local Master

169.—(1) When letters patent for any land situated in Muskoka, Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay or Rainy River are issued, the same shall be forwarded to the Local Master of Titles of the district, for the purpose of the patentee being entered as the first registered owner of the land, with any necessary qualification. R. S. O. 1887, c. 116, s. 141 (1).

(2) Before making such entry the Local Master shall obtain from the registrar of the registry division a certificate stating what instruments, if any, have been registered affecting the land, and in case he finds that any such instrument has been registered, he shall, unless as is in the next subsection provided, give notice to the patentee and to all other persons interested, before registering the patentee as owner; this subsection shall only continue in force until and including the 12th day of April, 1899. R. S. O. 1887, c. 116, c. 141 (2); 60 V. c. 21, s. 2 (1) part.

Proceedings
before entry.

(3) It shall not be necessary to issue a notice in respect of any instrument of which a Local Master has notice by registration or otherwise, in case by the certificate of the Commissioner or Assistant-Commissioner of Crown Lands it appears that the claim arising upon such instrument was considered by the Commissioner and disposed of before the issue of the patent; and if before the receipt of such a certificate any proceedings shall have been taken by a Local Master in respect of such instrument, he shall thereupon discontinue the same, and disallow any objection or claim founded on such instrument, and may make such adjudication as to costs as he deems just. 56 V. c. 22, s. 10 (2).

(4) In case there is no contest as to the rights of the parties the Local Master may make the requisite entry and issue his certificate; but in case of a contest, he shall transmit the papers to the Inspector of Titles before registering the patentee as owner, and shall otherwise proceed as provided in section 166 of this Act. R. S. O. 1887, c. 116, s. 141 (3).

(5) Where the Local Master to whom a patent is forwarded is aware that an instrument which is registered cannot affect the interest of the patentee, he need not give any notice on account of such instrument.

(6) Unless a caution is filed with the Master, under section 85 of this Act, no such notice need be given in respect of the sale of timber or trees when the sale is subject to a condition that the timber or trees shall be removed within a specified time, and such time has expired. 52 V. c. 20, s. 14.

(7) Letters Patent from the Crown demising lands, or Mining Rights for a term of years, or for any greater estate, which have been granted on or after the 31st day of December, 1897, or which may be hereafter granted shall be deemed to have been and to be within the provisions of this section. 60 V. c. 3, s. 3; c. 21, s. 6.

Patents
demising
mining lands
for term of
years declared
within this
section.

170. Where a patent for land is forwarded to a Local Master under section 169 of this Act, and it is made to appear to the said Master that the patentee since the date of the patent has transferred the land to some other person, the transferee, or in case of a further transfer or transfers the ultimate

Registration
of transferee
of patentee.

transferee of the land, shall be entered as the first registered owner, and shall be described as transferee of the patentee or otherwise according to the fact. 52 V. c. 20, s. 4.

Payment to
Assurance
Fund.

171.—(1) Before a certificate of ownership is issued, the patentee shall pay into the Assurance Fund, one quarter of one per cent. on the value of the land patented, unless he elects to have the amount made a charge on the land; and his failure to pay the amount prior to the issue of the certificate shall be deemed an election.

(2) Where the amount is not paid a note shall be made on the register and on the certificate that the land is liable to pay the assurance fee; and no subsequent transfer or charge of the land, or any transmission thereof, shall be registered until the same, namely, one quarter of one per cent. on the value of the land at the time of the entry of the transfer, charge or transmission, but not less than \$1, has been paid into the Assurance Fund. R. S. O. 1887, c. 116, s. 142; 52 V. c. 20, s. 9.

Notice by
Master to
sheriff and
treasurer.

172.—(1) Upon an entry of ownership being made as aforesaid the Local Master of Titles shall, in the prescribed form, notify the sheriff in whose bailiwick the lands lie, of the entry of the patentee as owner, and shall, in the prescribed form, notify the treasurer of the municipality, if the land is situated in a municipality, of the fact that the land has become subject to this Act.

(2) The notices shall be sent by registered letter post, and no entry of any dealing with the land shall be made in the register until fourteen days after the mailing of the notice, unless proof is previously made that the land is not liable to any execution or arrears of taxes.

(3) If within the fourteen days no copy of a writ of execution against the lands of the patentee is received from the sheriff, or no claim for arrears of taxes is received from the treasurer, the Local Master may assume that the land is not subject to any executions or taxes (other than taxes for the current year), and may enter subsequent dealings with the land accordingly; and as against such entry no claim shall afterwards be sustained in respect of an execution against the patentee, or in respect of any taxes against the land except for the current year or for a subsequent year.

Entry where
claim for taxes
or copy of
execution
received.

(4) In case the Local Master receives from the treasurer a claim for taxes on the land, he shall enter the claim against the land, and all dealings with the land shall be subject to such claim. In case of executions affecting the land, an entry thereof shall be made in like manner, and all dealings with the land shall be subject to such executions.

Master's fees
and disburse-
ments.

(5) Where notices are not required to be given on account of instruments having been registered against the land, or other-

wise, the Local Master shall be entitled to charge his actual disbursements.

(6) Where notices or other proceedings are necessary on account of instruments being registered, or on account of a caution having been lodged, or otherwise, the Local Master shall be entitled to charge in addition to his disbursements the like fees as are payable to the Master of Titles in respect of similar proceedings. R. S. O. 1887, c. 116, s. 143.

173. The first registration of a patentee as owner, under sections 169 to 172 of this Act, or of the first registration, under the said sections, of any person to whom the interest of the patentee has been transferred, shall not defeat any right or interest which any person who has not received the notice required by section 169 may, at the time of such first registration, be entitled to claim in the land; but nothing herein contained shall affect the title of a subsequent transferee or chargee. 52 V. c. 20, s. 13.

Effect of
registration
of a patentee
as owner.

SCHEDULE OF RULES.

(Section 151.)

[APPROVED BY ORDER-IN-COUNCIL, JULY 19TH, 1897.]

Application for First Registration.

1.—(1) The application (Form 1) for a first registration of land under this Act, shall state the nature of the interest of the applicant, and give a general description, in concise terms, of the land; it shall also state whether the registration applied for is with an absolute, a qualified, or a possessory title. Rules 1, 12, and Form 6 made under Imp. Act, 38 & 39 V. c. 87.

(2) Where the application is for the registration of a nominee, or is made by a purchaser, the consent in writing of the nominee or his solicitor, or the vendor or his solicitor, shall be left with the application.

(3) Where the application is made by virtue of a trust or power of sale, the consent in writing of the persons, if any, whose consent is required to the exercise of the trust or power shall be also left with the application.

(4) Where a qualified title is applied for, or where only a qualified title is shewn, if the qualification is of a complicated character, or if for any other reason the Master of Titles deems it improper that the land should be registered with the requisite qualification, the Master may refuse registration.

Possessory Title.

2.—(1) If the application is for registration with a possessory title only, there shall be left in the office with the application an affidavit (Form 3) made by the applicant (or by one of the applicants, if more than one, or by some person whose consent is required to the application) and his solicitor, where the application is made through a solicitor, to the best of their respective knowledge, information and belief, verifying the description, and to the effect that the applicant, either alone or with the person (if any) consenting to such application and either subject or not to incumbrances, is well entitled for his or their own benefit, or as holding the land on trust for sale, or as a trustee, or otherwise having a power of selling the land (as the case may be), to an estate in fee simple, or the power of disposing, by way of sale, of an estate in fee simple in the land, that the actual possession, or receipt of the rents and profits, thereof is in accordance

with the applicant's title, stating who is in actual occupation of the land and if a tenant of the applicant is in occupation for what term he claims to be entitled, and that the applicant (or his nominee) is entitled under the Act to be registered as the owner of the land, and that the documents of title (if any) mentioned in the schedule to the affidavit comprise amongst others (if the fact be so) the last conveyance or other document under which the applicant's title is derived.

(2) The affidavit of the applicant shall give the particulars of any mortgage or charge on the land, and if such incumbrance has been registered in the Registry Office, the said affidavit shall also state the registration number thereof.

(3) The entry of the first registration shall state the title of the applicant to be subject to the incumbrances mentioned, or so many of them as shall subsist at the time such entry is made.

(4) Where the application is not made through a solicitor, the applicant shall file the certificate (Form 4) of a Justice of the Peace of the county or district in which the land is situate, stating that such Justice is acquainted with the applicant, and that he believes him to be the owner of the land mentioned in his application, or is otherwise entitled thereto as set out in the certificate. Where the application is made through a solicitor, a certificate of the solicitor to the like effect shall be filed, or a certificate of a Justice of the Peace as aforesaid.

(5) Such notice (if any) of the application for registration, or of the registration, shall be given as the Master of Titles may direct.

(6) Where the Master of Titles is satisfied that it will be proper to grant the application, the registration may be made accordingly.

Absolute or Qualified Title.

Imp. Act 38 & 39 V. c. 87, s. 70. **3.** If the application is for a first registration with absolute or qualified title the application shall be supported by the following particulars unless any thereof shall be dispensed with by the Master of Titles :

1. The title deeds (if any) and evidences of title relating to the land which are in the possession or power of the applicant ;

Rev. Stat. c. 135

2. Certified copies of all other registered instruments affecting the land or of the memorials thereof, or of all since the last judicial certificate, if any, under *The Quieting Titles Act*, was given, as the case may be, unless the Master shall dispense therewith or with any of such copies ;

3. The certificate of the Registrar of the county or other registry Division in which the land lies, shewing what instruments are registered affecting the land ;

4. Proofs of any facts which are required to be proved in order to make out the title, and which are not established by the other produced documents, unless the Master of Titles shall dispense with such proofs until a future stage of the investigation ;

5. An affidavit, (Form 2) or deposition of the person whose title is to be investigated to the effect hereinafter mentioned, unless the Master of Titles sees fit, for some special reason, to dispense with the same.

Affidavit of Applicant.

Imp. Act, 38 & 39 V. c. 87, s. 70. **1.** (1) The affidavit (Form 2) or deposition of the person whose title is to be investigated shall state to the effect, that to the best of his knowledge and belief he is the owner of the estate or interest (whatever it is) which is claimed in the application, subject only to the charges and made under mp. Act.

incumbrances set forth in the application, or that there is no charge or incumbrance affecting the land; that the deeds, instruments and evidences of title which he produces, and of which a list is contained in the schedule produced under the preceding rule, are all the title deeds, instruments and evidences of title relating to the lands which are in his possession or power; and that he is not aware of the existence of any claim adverse to or inconsistent with his own to any part of the land or to any interest therein; or, if he is aware of such adverse claim, he shall set forth every such adverse claim, and shall depose that he is not aware of any except what he sets forth.

(2) The affidavit or deposition shall also set forth whether any one is in occupation of the land, and under what claim, right or title; and shall state that to the best of the deponent's knowledge, information and belief, the said affidavit or deposition, and the other papers produced therewith, fully and fairly disclose all facts material to the title claimed by the applicant, and all contracts and dealings which affect the same or any part thereof, or give any right as against the applicant.

(3) The said affidavit or deposition may, in a proper case, be dispensed with, or may be made by some other person instead of the person whose title is to be investigated, or an affidavit or deposition as to part may be made by the one, and as to part by another, at the discretion of the Master of Titles; and in such case, the affidavit shall be modified accordingly.

Mode of Proof.

5. The proofs required may be by, or in the form of affidavits or certificates; or may be given *viva voce*; or may be in any other manner or form that, under the circumstances of the case, is satisfactory to the Master of Titles in regard to the matters to which the same relate.

Sheriff's Certificate.

6. Before the application is granted, where an examination of title is required, the certificate of the proper Sheriff (Form 8) shewing what writs (if any) are in his hands affecting the land shall be filed.

Payments of Taxes and Assessments.

7. Before the application is granted, where an examination of title is required, satisfactory evidence shall be given by certificate, affidavit or otherwise, that all taxes, rates and assessments, for which the land is liable, except those for the current year have been paid, or as the fact may be.

Production of Further Evidence.

8. If the Master of Titles is not satisfied with the evidence of title produced in the first instance, he shall give a reasonable opportunity of producing further evidence, or of removing defects in the evidence produced.

Registration in Registry Office of Certificates of Application.

9.—(1) Unless the application for first registration is for a possessory title, a certificate by the Master of Titles, of the application for registration, shall be registered in the registry office of the registry division where the land lies, before the first registration in the Land Titles Office is completed.

(2) The registration of the said certificate shall be equivalent to the registration of a certificate of *lis pendens* in an action in the High Court.

(3) Where an application for first registration is granted as to part of the land described in the certificate of application registered in the Registry Office under this rule, the certificate issued for registration under section 18 of the Act shall shew whether the application has been refused as to the residue, or has been reserved for further consideration, or how otherwise the same has been disposed of.

(4) Where after a certificate under this rule has been registered, an application for first registration is refused or withdrawn as to the whole or part of the land, a certificate to that effect may on the application of any person interested in the land be issued by the Master for registration.

Publication of Notice.

Rules 10 and
14 made under
Imp. Act 38 &
39 V. c. 87.

10.—(1) Before the completion of a first registration as aforesaid, the Master of Titles shall, except as hereafter provided, direct notice of the application to be published in the *Ontario Gazette*, and, if he sees fit, in any other newspaper or newspapers, and in such form and for such period as he thinks expedient.

(2) The registration shall not be completed until after the expiration of at least four weeks from the first publication of such notice, or such other period as the Master of Titles may appoint.

(3) If the Master of Titles is satisfied respecting the title, and considers that the registration can safely be completed without any other notice of application than the published notice so required, he shall complete the same accordingly.

(4) Notice of any number of applications may be included in one advertisement if the Master of Titles thinks fit, and in such case the expense of the advertisement shall be borne by the several applicants in such proportions as the Master of Titles may direct.

Rev. Stat.
c. 135.

(5) The Master of Titles may dispense with the advertisement where the applicant is the original grantee from the Crown, or produces all the title deeds by which the title is traced from such grantee, or all the title deeds by which the title is traced for 40 years by a registered title, or where the applicant or some one through whom he claims, has obtained a Certificate of Title under *The Quieting Titles Act*, and the applicant produces all the title deeds subsequent to the certificate. Provided in every case that the applicant is in actual occupation of the land, or that every other person in actual occupation thereof is notified, or that the land is vacant, and the applicant is in constructive possession thereof by having paid the taxes. Where the duplicate of an instrument is deposited in the Registry Office the production of this duplicate shall be a sufficient production under this subsection.

(6) If the value of the property does not exceed \$3,000, the Master instead of causing notice of the application to be advertised may direct that a printed or type-written general notice, or several copies thereof, shall be posted upon the property in a conspicuous place or places, and a copy thereof mailed by registered post addressed on the outside to the occupant of each contiguous property which is occupied, or instead of being mailed, left at the residence of the occupant, or in case any contiguous property is unoccupied, then mailed to the occupant of the nearest occupied property lying at the same side as such unoccupied contiguous property, or left at the residence of such occupant.

(7) Where several persons belonging to the same family occupy any property, the head of the family, for the time being, shall be deemed the occupant within the meaning of this rule, and where there is any doubt to whom a copy of the notice should be mailed, or who should be served, the Master shall give directions in respect thereof.

Notice to Adverse Claimant.

11. In case there appears to exist any claim adverse to, or inconsistent with, that of the applicant to or in respect of any part of the land, the Master of Titles shall direct such notice (Form 11) as he deems necessary to be mailed to or served on the adverse claimant, his solicitor or agent. Rule 10, made under Imp. Act 38 and 39 V. c. 87.

Additional Notices.

12. In all cases the Master of Titles, before granting the Certificate, may require from time to time any further publication to take place, or any other notice to be mailed or served that he deems necessary. Rule 12, made under Imp. Act 38 and 39 V. c. 87.

Objections.

13.—(1) Any person having an adverse claim, or a claim not recognized in the application may, at any time before the registration under this Act is completed, file and serve on the applicant, his solicitor or agent, a short statement of his claim. (Form 12). Rule 11, made under Imp. Act 38 and 39 V. c. 87.

(2) This claim shall be verified by an affidavit to be filed therewith and shall contain an address in this Province at which service on the objector shall be made.

Hearing of Objections.

14. The applicant or his solicitor shall obtain an appointment before the Master of Titles for hearing any objection which shall have been duly left in the office. Service of the appointment shall be made on the objector or his solicitor seven clear days before it is returnable. The parties may be heard in person, or by counsel or solicitor.

Decision in Contested Cases.

15. In case of a contest, the Master of Titles may either decide the question of title on the evidence before him, or may refer the same or any matter involved therein to the Court, or to any mode of investigation which is usual in other cases, or which he deems expedient, according as the circumstances of each case render just, and may defer completing the registration until afterwards.

Applications Unduly Delayed.

16. When any application has remained without being proceeded with for a period of three months, notice may be given to the applicant or his solicitor that the application will be treated as withdrawn unless duly proceeded with within a time to be named in the notice, and at the expiration of that time, if not duly proceeded with, the application may be treated as withdrawn accordingly. Rule 7 (i) made 1st January, 1889, under Imp. Act 38 and 39 V. c. 87.

Notice of Place of Service where Party acts in Person.

17.—(1) Where a party appears in person to prosecute, oppose or watch any proceeding in the office of a Master, then in case such party files with the Master a notice entitled in the matter pending before such Master, giving an address for service, being some place not more than two miles distant from the office of the said Master, all notices, orders, appointments and other documents which do not require personal service may be served upon such party by leaving the same at the place of said address for him.

(2) In case such party omits to file, as aforesaid, a notice giving an address for service, then the mailing of any such notice, order, appointment or other document, addressed to such party at his place of address,

given under Section 113 of *The Land Titles Act*, or if no such place of address is given, then the mailing of any such notice, order, appointment or other document, addressed to the place of residence of such party, post paid and registered, shall be deemed a sufficient service upon the date of such mailing, unless the Master otherwise directs.

Costs.

18.—(1) The Master of Titles may, at any stage of the cause, order security for costs to be given by the applicant for registration, or by any person making any adverse claim.

(2) If the Master orders costs to be paid by any person, he may either fix the amount or may direct payment after taxation and in that case the said costs may be taxed by either of the taxing officers of the Supreme Court of Judicature for Ontario, who shall tax the same subject to any special direction the Master of Titles may give.

(3) Upon such taxation the like fees shall be payable to the taxing officer in stamps as are payable upon a taxation under an order of a Judge of the High Court and the practice and rules applicable to a taxation under a Judge's order shall apply to the said taxation.

Abatement of Proceedings.

Rule 5, made
under Imp.
Act 38 and 39
V. c. 87.

19. In case of death or change of interest pending registration, the proceedings, shall, subject to the provisions of this Act, be available to such person as the Master of Titles on application, having regard to the rights of the several persons interested in the land, may direct, if such person thinks proper to adopt the same; and the Court or the Master of Titles may require notices to be given to persons becoming interested, or may make any order for discontinuing or suspending or carrying on the proceedings, or otherwise in relation thereto, as under the circumstances may be just.

Caution against First Registration.

Rule 15, made
under Imp.
Act 38 and 39
V. c. 87.

20.—(1) Every caution lodged under section 85 of the Act shall be signed by the cautioner or his solicitor, and shall contain a description of the land and a place of address in this Province at which any notice may be served; and the affidavit in support of the caution shall be left therewith.

(2) The period to be limited by the notice to be served on the cautioner under section 88 shall be 14 days, or such other period not less than 7 days, as the Master of Titles may direct. The notice shall be served either personally or through the post.

[Subsection 3 of this Rule required a caution under section 85 to be renewed within 5 years. This now appears in the Act as sec. 85 (2).]

Caution against Dealing with Registered Land.

Rule 16, made
under Imp.
Act 38 & 39
V. c. 87.

21.—(1) Every caution lodged under section 75 of the Act (Form 19) shall be signed by the cautioner or his solicitor or by his agent duly authorized in writing, and shall contain a place of address in the Province, at which any notice may be served, and shall mention the registered number of the parcel; and the affidavit (Form 20) in support of the caution shall contain a reference to the land or charge to which the caution applies, and shall also contain the particulars of the cautioner's interest in such land or charge.

(2) Where a person claims to be entitled to register a caution in respect of the interest of a part owner of any land or charge, or a caution founded upon a claim that he is a part owner, his caution shall be confined to the share of such person or to the share which the cautioner claims, and such caution shall not prevent the dealing of the other part owners with their shares, where the extent of their interest appears on the register.

(3) Where the Master is not satisfied that the person desiring to register a caution has an interest in the land or charge, he may before entering the caution require satisfactory evidence of such interest to be produced.

(4) Where it appears that the person desiring to register a caution has not such an interest in the land or charge as entitles him to file the caution, the Master shall refuse to receive the same, but this shall not be construed to prevent a *cestui que trust* from filing a caution for the purpose of requiring notice of the dealings of his trustee with the land.

(5) The consent of a cautioner under section 76 to the registration of any dealing shall be signed by him, or by his agent, duly authorized in writing and shall be attested and duly verified.

Withdrawal or Termination of Caution.

22.—(1) A Master may cancel the entry of any caution upon receiving the consent in writing (Form 23) of the cautioner, or of his solicitor where the caution was signed by such solicitor, to the withdrawal or cancellation thereof.

(2) Unless the consent is given by a solicitor as aforesaid it shall be signed by the cautioner or by his agent duly authorized in writing, and the signature shall in all cases be attested and duly verified.

(3) Where the registered owner of the land or charge affected by a caution claims that the caution has been improperly registered or that the interest in respect of which it was lodged has ceased, he may apply (Form 21) to the Master for a notice to terminate the caution, and the Master, upon the return of the notice, may terminate such caution or may make such other order either for the purpose of determining the rights of the parties or otherwise, as he may deem proper.

(4) Where a caution founded upon proceedings in a Court is lodged under section 75 and the application for a notice to terminate the caution is made, the Master, before issuing the notice, shall require an affidavit to be filed, or other evidence adduced, showing that the caution ought not to be continued or that some terms should be imposed upon the cautioner.

(5) The period to be limited by the notice to be served on the cautioner under section 76 of the Act shall be 14 days or such other period, not less than 7 days, as the Master of Titles may direct.

Inhibitions.

23. Every application to the Master of Titles for an inhibiting order under section 81 of the Act shall be supported by the affidavit of the applicant or his solicitor, stating the grounds of the application and referring to the evidence in favour thereof. An appointment shall be then made for hearing the same and for production of the evidence in support thereof.

Rule 17, made under Imp. Act 38 & 39 V. c. 87.

Restrictions.

24.—(1) Every application under section 82 of the Act shall state the particulars of the direction or restriction required to be entered on the register, and shall be proceeded with as the Master of Titles shall direct; and every application under section 83 of the Act to withdraw or modify any direction or restriction shall be made and signed by all persons for the time being appearing by the register to be interested in such direction or restriction, and shall be attested and duly verified.

Rule 18, made under Imp. Act 38 & 39 V. c. 87.

(2) Before any entry is made upon the register under paragraph 4 of section 103 of the Act the consent in writing thereto of the persons to be entered as the registered owners of the land or charge, stating the particulars of the entry required, shall be lodged in the office.

Rule 19, made under Imp. Act 38 & 39 V. c. 87.

Charge of Registered Land.

Rule 20, made
under Imp.
Act 38 & 39
V. c. 87.

25.—(1) The instrument by which any charge of freehold or leasehold land (Form 28) shall be made under section 33 of the Act shall be left in the office and the execution thereof by the registered owner of the land shall be attested and duly verified.

(2) Where it is desirable that an entry shall be made on the register negating the implied covenants referred to in sections 34 and 35 of the Act, or that any entry should be made on the register, contrary to the powers given to a registered owner of a registered charge by sections 36, 37 and 38 respectively, or contrary to the provisions of section 39 as to the priority of registered charges, the application to be made in that behalf shall state the particulars of the entry required to be made, and shall be signed, and the signature attested and verified in the same manner as is required with respect to the execution of the instrument of charge,

(3) Such verification may, where practicable, be made by the same affidavit as that verifying the execution of the instrument of charge.

(4) In the event of a foreclosure or sale being enforced by the registered owner of the charge, the Master of Titles shall, upon the application of the person entitled to the benefit of the foreclosure or sale, and on proper proof, make all necessary entries in the register. The applicant is to leave with the Master a draft of the entry which he considers himself entitled to.

Transfer of Registered Charge.

Rule 21, made
under Imp.
Act 38 & 39
V. c. 87.

26.—(1) The instrument by which any transfer of charge (Form 29) shall be made, under section 57 of the Act, shall be left in the office, and the execution thereof by the registered owner of the charge shall be attested and duly verified.

(2) A transfer of a charge may contain an agreement that upon the payment of a sum of money therein named or upon the performance of any conditions therein stated, the charge shall be re-transferred to the transferor.

(3) The insertion of such agreement in a transfer of charge shall not affect the right of the transferee, while registered owner thereof, to deal with the charge.

Cancellation of Qualification of Title.

27. Where any person is registered with a title subject to any qualification or exception, the Master, upon proof that any such qualification or exception has ceased to exist or is no longer necessary, may remove the same by cancelling the entry thereof, and writing in the margin a short explanatory memorandum, or by noting in the register the fact of proof as aforesaid having been furnished, with a reference in every case by number to the application or instrument under which such action is taken.

Cessation of Charge and Determination of Lease.

Rule 22, made
under Imp.
Act 38 & 39
V. c. 87.

28.—(1) Where the cessation of a charge entered on the register is required to be notified under section 40 of the Act, and the application (Form 32) is not made or concurred in by the registered owner of the charge, due proof of the satisfaction of the charge shall be left with the application.

(2) The Master of Titles, upon being satisfied of the cessation of a charge, shall, where convenient, notify the same by cancelling the original entry, or shall otherwise enter on the register the fact of such cessation.

(3) This rule shall, where applicable, extend to applications to notify the determination of any lease or agreement for a lease under section 72.

Cancellation of Entries in Execution Book.

29. In case, after a copy of a writ of execution affecting the land of the registered owner has been received by the Master, there is filed by or on behalf of such owner or any person interested in the land, a subsequent certificate of the sheriff shewing that there is at the date thereof no execution in his hands against the lands of such owner and that none are outstanding for renewal or outstanding with a return of lands on hand for want of buyers or to the like effect, and that no lands have been sold by the said sheriff under an execution against the said owner within six months preceding the date thereof, or in case there is filed as aforesaid any other certificate of the sheriff shewing that the executions previously entered in the execution book have ceased to affect the land of the said owner, the Master may cancel in the said book all previous entries of writs against the said owner.

Transfer of Registered Land.

30. The instrument by which any transfer of land (Form 31) shall be made under section 41 or 51 of the Act, shall be left in the office, and the execution thereof by the registered owner shall be attested and duly verified. Rule 23, made under Imp. Act 38 & 39 V. c. 87.

Entry Negating Implied Covenants on Transfer of Leasehold Land.

31. Every application requiring an entry to be made on the register negating the implied covenants referred to in section 56 of the Act, shall state the particulars of the entry required to be made, and shall be signed, attested and verified in the same manner as is required with respect to the execution of the instrument of transfer. The verification may, where practicable, be made by the same affidavit as that verifying the instrument of transfer. Rule 24, made under Imp. Act 38 & 39 V. c. 87.

Assignment for Benefit of Creditors.

32. Where registered land or a charge is transferred by a registered owner to an assignee for the general benefit of the creditors of the transferor, whether by general words or otherwise, the Master of Titles shall, upon the application of the assignee, describing the lands by the numbers of the parcels under which they are registered, and upon proper proof being given, subject to the requirements of any caution which has been entered, register the assignee as the owner of any lands or charges registered in the name of the transferor affected by the transfer to such assignee subject to any incumbrances that may appear thereon, and shall describe such trustee shortly, as assignee for the benefit of the creditors of the transferor or to the like effect, but without setting out the terms of the trusts under which the land or charge is held.

Evidence of Transmission of Registered Ownership.

33. Where it is required to prove the fact of any person having become entitled to any land or charge, in consequence of the death of any registered owner, the application (Forms 41 and 42) shall state the fact to be proved, and the nature of the evidence in support thereof. The evidence shall be left in the office with the application, and the fact shall be proved to the satisfaction of the Master of Titles and the matter proceeded with as he directs. Rule 25, made under Imp. Act 38 & 39 V. c. 87.

Death of Registered Owner, and Estates in Dower or by the Curtesy.

Rule 26, made
under Imp.
Act 38 & 39
V. c. 87.

31.—(1) Every application (Forms 41, 42 and 43) under section 59, 60, 61 or 74 of the Act, shall be supported by the affidavit of the applicant and his solicitor, shewing concisely the existing rights of the several persons interested in the land or charge affected by the application.

(2) The evidence in support of the application shall be left therewith in the office, and the Master of Titles may require such other evidence (if any) and such notices to be given as he may think fit, and the matter shall be proceeded with as he shall direct.

Cessation of Incumbrances and of Leases entered on First Registration.

Rule 27, made
under Imp.
Act 38 & 39
V. c. 87.

35.—(1) Where, upon the first registration of any freehold or leasehold land, notice of an incumbrance affecting such land has been entered on the register, the cessation of which is required to be notified under section 30 of the Act, the applicant, in case there has been any dealing with, or transmission of, or interest created or arisen in, such incumbrance, not appearing on the register, shall leave in the office an abstract of his title to make the application and prove the same in the usual way, and the matter shall be proceeded with in the mode provided in the cases of examination of title on registration, subject to any special directions of the Master of Titles.

(2) The Master of Titles, upon being satisfied of the cessation of an incumbrance, shall notify the same by cancelling, where convenient, the original entry, or otherwise by entering on the register the fact of such cessation.

(3) This rule shall, where applicable, extend to applications to notify the determination of any lease of registered leasehold land under section 31 of the Act, and to the cancellation under rule 27 of qualifications or exceptions.

Registration of a Lease or Notice of a Lease.

36.—(1) Where a notice of a lease or agreement for a lease is to be registered under sections 72 and 73 of the Act, the lease or agreement duly verified, shall, if in the possession of the applicant, be left with the application and shall be entered in full in a book to be kept for the entry of leases. If a copy only of the lease or agreement is deposited the original shall be produced for comparison with the copy.

(2) Notice of the lease shall be given by entering a short memorandum in the register of the land, stating the fact of the lease and the length of the term and referring to the entry in the book kept for the entry of leases.

(3) If the registered owner of the land concurs he shall be a party to and sign the application, or consent in writing thereto, and his signature shall be attested and duly verified.

(4) If the registered owner does not concur such notice shall be given him under section 73 as the Master deems reasonable.

Entry as to Exceptions under Section 26.

Rule 29, made
under Imp.
Act 38 and 39
V. c. 87.

37.—(1) Every application requiring any entry to be made on the register in respect to any of the liabilities, rights and interests, that are by the Act declared not to be incumbrances, shall state the particulars of the entry required to be made.

(2) The evidence in support of the application shall be left therewith and the application shall be proceeded with in such manner as the Master of Titles shall direct.

38. Any fact to be notified on the register under section 26 of the Act shall be entered in the Register of the Parcel.

Conditions and Covenants Annexed to Lands.

39.—(1) Every application (Forms 44 and 45) to register conditions or covenants as annexed to land about to be registered, or to any registered land about to be transferred, shall be made, in case of land about to be registered, either by the person who by himself or nominee is about to be registered as owner of the land, or with his consent in writing, duly verified, and, in the case of land about to be transferred, either by the person actually registered as owner of the land, with the consent in writing, duly verified, of the intended transferee, or by such transferee, with the consent in writing, duly verified, of the registered owner.

Rule 31, made under Imp. Act 38 and 39 V. c. 37.

(2) In any case of conditions or covenants being annexed on application under section 104, or on first registration as arising on examination of title, a copy of the conditions or covenants, or of the document containing them, shall be left in the office, and the registration of such conditions or covenants may be made by reference on the register to such copy.

(3) On the registration of any leasehold land, held under a lease containing a prohibition against alienation without license, provision shall be made for preventing alienation without such license by an entry on the register of a reference to such prohibition.

Land Certificate.

40.—(1) A land certificate (Form 7) shall be under the seal of the office, and contain a copy of the registered description of the land, and the name and place of residence of the registered owner, and a short statement of such other matters (if any) as may for the time being be entered on the register as affecting the land, and shall state whether the registered ownership is absolute, qualified or possessory.

(2) A land certificate to the transferor under section 41 where only part is transferred may, if the Master of Titles shall think fit, consist of his subsisting land certificate, if any, with a memorandum thereon shewing the part disposed of.

(3) No new land certificate shall be issued under section 41 to the same owner unless the old certificate is delivered up, except as provided in section 98.

(4) Where the whole parcel is transferred, the Master instead of delivering a new certificate, may write on the existing certificate a memorandum shewing the transfer, and the same shall have the effect of a new certificate to the transferee, but a land certificate shall not be again transferred where three previous transfers thereof have been made, nor in any case where, on account of the number of transactions endorsed thereon, or for any other reason, the Master deems such transfer inexpedient.

Certificate of Charge.

41.—(1) A certificate of charge shall be under the seal of the office, and may at the option of the applicant contain either a copy of the entry on the registry of such charge, with a reference to or a copy of the registered description of the land, or the same particulars as a land certificate.

(2) Where a charge is transferred the Master, instead of delivering a new certificate of charge, may write on the existing certificate a memorandum shewing the transfer, and the same shall have the effect of a new certificate to the transferee.

Registered Lease and Office Copy thereof.

Rule 34, made under Imp. Act 38 and 39 V. c. 87. **42.**—(1) Every lease or copy of such lease, or of a counterpart thereof, deposited with the Master of Titles, under section 19 of the Act shall be retained in the office during the continuance of such lease.

(2) Application for an office copy of a registered lease shall be made by the registered owner entitled to have and requiring the same. Such copy shall be marked as an office copy and authenticated under the seal of the office.

(3) In addition to or as part of the particulars required by section 24 of the Act to be endorsed on an office copy of a lease, a copy of or a reference to the registered description and the map, if any, annexed thereto, shall be endorsed on or annexed to such office copy.

(4) Where a fresh copy is required under section 51 of the Act, in addition to such of the particulars provided by section 24 of the Act and this rule to be endorsed on an office copy or annexed thereto, as in the Master's opinion may be applicable, there shall be annexed to such fresh office copy and referred to in an endorsement thereon a copy of the map (if any) referred to in the registered description of the part transferred, shewing the part so transferred, and an endorsement shall be made on the office copy of the part retained, showing the part disposed of by reference to its registered description, or otherwise.

New Land Certificate, Office Copy Lease, or Certificate of Charge.

Rule, 35 made under Imp. Act 38 and 39 V. c. 87. **43.** Every application for a new land certificate, or office copy of a registered lease, or certificate of charge to be granted, under section 98 of the Act, shall be supported by an affidavit of the applicant, stating the fact that the former one has been lost, mislaid, or destroyed, and the circumstances thereof, and the new certificate or copy shall contain a statement that it is granted in the place of the certificate or copy lost, mislaid or destroyed.

Questions arising on Registrations.

Rule 36, made under Imp. Act 38 and 39 V. c. 87. **44.** If, at any time during the investigation of title, or in any registration proceeding, any question or doubt or dispute arises, notice may, with the consent of the Master of Titles, be given by the applicant to any person interested in such question or doubt or dispute, to the effect that the same will be brought before the Master of Titles at a time to be mentioned in such notice, and that such person may attend before the Master of Titles at such time by himself, or his counsel or solicitor, and take part in the investigation and settlement of such question, doubt or dispute.

Number of Registered Owners.

45. Any number of persons may be registered as owners of any parcel of land or of a charge.

Applications to be Signed.

Rule 38 made under Imp. Act 38 and 39 V. c. 87. **46.** Every written application to be made under these Rules shall be signed by the applicant or his solicitor.

Abstracts and Documents to be Retained in Office.

47. All abstracts and copies of documents and all documents for registration left in the office shall be retained in the office, pending completion of the registration to which they relate, and shall be afterwards dealt with as the Master of Titles shall direct. Abstracts and documents shall where practicable be examined with the originals.

Rule 40, made under Imp. Act 38 & 39 V. c. 87.

Applications, Transfers, etc., how written and folded.

48.—(1) Applications for first registration and affidavits in connection therewith, and also application of a special nature and the papers filed thereon, but not requiring to be registered, shall be written on one side of foolscap paper, and shall be folded lengthwise and neatly endorsed.

(2) Transfers, charges, cautions and other documents lodged for registration shall be written on paper not of less size than half a sheet of foolscap, and shall be folded in the manner usually adopted in respect of deeds, that is to say folded twice across, and neatly endorsed.

Documents, etc., to be fairly Written, etc.

49. The Master of Titles may refuse to receive any abstract or document that is not fairly written, lithographed, or printed, or is not in conformity with the rules of the office.

Rule 41, made under Imp. Act 38 & 39 V. c. 87.

Instruments Executed under Powers of Attorney.

50. If any document, left in the office for registration purposes, has been executed under a power of attorney, the power of attorney (Form 49) shall be produced, and, if the Master of Titles shall so direct, left in the office, and the execution thereof by, and the identity of, the principal, and the execution of the document by, and the identity of, the attorney shall be duly verified, and such evidence furnished (if any) that the power of attorney was effectual at the date of the execution of the document thereunder as the Master of Titles may direct.

Rule 42, made under Imp. Act 38 & 39 V. c. 87.

Registration of Powers of Attorney.

51. Powers of attorney of which the original, with due proof of the execution thereof, or copies certified by a registrar of deeds under section 54 of *The Registry Act*, are lodged with the Master for registration shall be copied into a book for that purpose. Local Masters may use the same book for the entry of leases under rule 36, and of powers of attorney under this rule unless in any case the Inspector otherwise directs.

Destruction of Exhausted Instruments.

52. The Master of Titles may direct the destruction of any instruments in his possession or custody where they have become altogether superseded by entries in the register or have ceased to have any effect.

Rule 43, made under Imp. Act 38 & 39 V. c. 87.

Stationery Charges.

53.—All copies, entries, or engrossments, or other writings made by a clerk in the office, and all stationery and forms supplied and supplied by the office in the course of registration, shall be paid for by the applicant, in stamps or otherwise as the case may require.

Rule 45, made under Imp. Act 38 & 39 V. c. 87.

Verification of Instruments.

Rule 46, made
under Imp.
Act 38 & 39
V. c. 87.

54. Where the signing or execution of any document is required to be duly verified, such signing or execution shall be attested by a witness, and such verification shall be made by his affidavit (Forms 46 and 47) and when the document is signed or executed by a person named or referred to on the register, such affidavit shall identify the person signing or executing the same accordingly.

Evidence.

Rule 47, made
under Imp.
Act 38 & 39
V. c. 87.

55. The Master of Titles may, if he thinks fit, require evidence to be given *viva voce* before him.

The Register.

Rule 56, made
under Imp.
Act 38 & 39
V. c. 87.

56.—(1) The register shall be made and kept in such mode that in every case where there is a registered owner of any parcel of land, such land and any transactions relating thereto authorized to be entered on the register shall be entered on a page or succession of pages, so as to form a separate record in the register, hereinafter called the Register of the Parcel.

(2) Entries of ownership in the register need not be under seal.

(3) Unless the Master of Titles shall otherwise direct, each parcel of land separately entered on the register shall be distinguished by a separate number, and where the land originally registered is dealt with in separate parcels, each new separate parcel shall also refer to the number of the original parcel.

(4) Where a part only of the registered land is comprised in the transfer a note shall be made in the register of the land retained, shewing the part disposed of.

(5) The Master shall note upon the register of the parcel of the transferor the number of the parcel of the transferee's title, and upon that of the transferee the number of the parcel of the transferor, so that reference can be readily made from one to the other as occasion may require.

(6) Where the pages originally allowed for entries in respect of a parcel of land are filled up, the entries shall be continued on another page, or succession of pages, in the same or a subsequent volume of the register, reference being made at the foot of the last page to the place of continuation, and such page, or succession of pages, shall be deemed a continuation of the register of the parcel.

(7) Where, in order to preserve simplicity in the entries of transactions respecting the land included in any parcel, the Master deems it advisable to enter the whole or any part of a parcel of land as a new parcel either alone or with other land, he may do so and may call in the outstanding land certificate for the purpose of making thereon all proper entries or memoranda. The Master upon making such entry shall note in the register of the old parcel the fact of such entry, shewing in the said note the land so entered, and thereafter the page on which the said land is newly entered and the page or pages succeeding the same set apart for the entry of dealings in respect thereto, shall be deemed the register of the title of the portion or portions so dealt with.

(8) The register of a parcel of land on which a charge is first entered shall also be the register of the charge, and all entries required by section 33 to be made shall be made therein, and all subsequent dealings with the charge shall also be noted therein, unless for special reasons the Master deems it expedient to transfer the same to a new register, in which case

the fact that all such dealings are to be entered in the new register shall be noted in the margin of the old register opposite the entry of the charge. The new register may be either an entirely independent page or succession of pages, or it may be the register of a parcel of land derived from the parcel on which the charge was first entered.

(9) No entry in the register shall be set aside or called in question by reason of any irregularity or informality in any proceeding previous to the making thereof.

(10) The Master may withdraw from the register, by cancellation or otherwise, any notice or entry which he is satisfied no longer affects the registered land.

Substituted Description.

57.—(1) In case the registered owner of any land is desirous that a revised description shall be substituted for the then registered description, the Master, if he sees good reason, may in his discretion cause a revised description to be substituted accordingly.

Rule 49, made under Imp. Act 38 & 39 V. c. 87.

(2) In that case such substituted description shall thenceforth be the registered description of the land, but without prejudice to the description existing at the time of such substitution, so far as relates to estates previously registered.

Plans.

58.—(1) An owner sub-dividing land for the purpose of selling or conveying the same in lots shall deposit with the Master a map of the land on a scale not less than one inch to every four chains, and the scale shall be marked on the plan. The plan shall shew in black India ink the boundaries, numbers and other distinguishing marks of the lots laid out thereby, and shall shew the number of the township, town, or village lots, and range or concession as originally laid out, and all the boundary lines thereof within the limits of the land shewn on the said plan, and where the plan is a sub-division of a lot or lots on a former plan it shall shew in a permanent ink of another colour the numbers or other distinguishing marks of the lot or lots sub-divided and the boundary lines of such lot or lots. The plan shall also shew all roads, streets, lots and commons within the same, with the courses and widths thereof respectively, and also in black India ink the width and length of all lots, and the courses of all division lines between the respective lots within the same, together with such other information as is required to shew distinctly the position of the land being sub-divided.

(2) Every such plan shall be signed by the owner of the land or his agent, or where a corporation is the owner, by the chief officer of the corporation, and shall be certified by an Ontario Land Surveyor in Form 52 given in the schedule appended hereto.

(3) Every such plan shall be mounted on stiff pasteboard of good quality, and in case it exceeds thirty inches in length by twenty-four inches in width shall be folded so as not to exceed this size.

(4) The Master, before filing the plan, may require evidence to be given explaining any seeming discrepancy between the measurements on the plan and the description of the land in the register, or may require evidence respecting any other matter which he considers requires to be explained.

59.—(1) In other cases the Master may require a person applying for registration under this Act, to deposit a map or plan of the land, with the several measurements marked thereon, certified by an Ontario

Rules 50 & 51, made under Imp. Act 38 & 39 V. c. 87.

Land Surveyor and so many counterparts as may be required, and upon one of the following scales :—

- (a) If the land, or the portion thereof proposed to be transferred or dealt with, is of less area than one acre, then the map or plan shall be on a scale not less than one inch to two chains.
- (b) If the land, or the portion thereof proposed to be transferred or dealt with, is of greater area than one acre, but not exceeding five acres, then the map or plan shall be on a scale not less than one inch to five chains.
- (c) If the land, or the portion thereof proposed to be transferred or dealt with, is of greater area than five acres, but not exceeding eighty acres, then the map or plan shall be on a scale not less than one inch to ten chains.
- (d) If the land, or the portion thereof proposed to be transferred or dealt with, is of greater area than eighty acres, then the map or plan shall be on a scale of one inch to twenty chains.

(2) The owner shall sign the said plan and verify the accuracy of the same before some person authorized under section 139.

(3) If the owner neglects or refuses to comply with such requirements as aforesaid, the Master may refuse to proceed with the registration of the transfer or dealing.

(4) Subsequent sub-divisions of the same land may be delineated upon a duplicate of the map or plan of the same so deposited, if the same is upon a sufficient scale in accordance with the provisions herein contained ; and the correctness of the delineation of each such sub-division shall be acknowledged in the manner prescribed for the case of the deposit of an original map.

(5) Where parts of different legal sub-divisions are included in the same transfer, the map shall represent the whole of such legal sub-divisions, and shall indicate the location of the lands to be transferred ; this shall not be necessary in the case of lots in a city, town or village, the plan of which has been registered, unless the Master shall otherwise direct.

Withdrawal of Land.

60. An application for the withdrawal of land from under the Act shall be in writing, shall define the land proposed to be withdrawn, and shall set out the circumstances which render the withdrawal expedient.

Summons to Witness.

61. Upon any summons being issued under section 141 of the Act, the affidavit verifying the service thereof shall also prove that the reasonable charges of the attendance of the person summoned, and of his production of the documents (if any) required to be produced, have been paid or tendered to him.

Notices, Preparation and Service of.

Rule 53, made
under Imp.
Act 38 & 39
V. c. 87.

62.—(1) All notices and summonses required to be given or served for any purpose shall be prepared by the applicant, and such portions thereof as are in manuscript shall be legibly written. Copies of notices to be served upon adverse claimants shall be under the seal of the office.

(2) If the service of a notice or summons be personal, it shall be proved by affidavit.

(3) If the service be through the post, it shall be made by prepaid registered letter. In such case open official envelopes, duly stamped and addressed, and marked outside "Office of Land Titles, Toronto," and "to be returned to the Office of Land Titles, Toronto, if not called for or delivered in ten days," or to the like effect, and with the word "Registered," and containing the notices stamped, shall be left at the office of Land Titles for mailing.

(4) Every notice required to be given shall, if sent through the post, unless returned, be deemed to have been received by the person addressed within seven days after the usual course of post, if addressed to any place within Canada, Great Britain or the United States of America, and within such time as the Master shall direct if addressed to some other place.

(5) On the return of any letter containing any notice, the Master of Titles shall act in the matter requiring such notice to be given in such manner as he shall think fit.

Substituted Service.

63. Substituted service on the solicitor or agent of any person shall be deemed good service on such person if the Master of Titles shall so direct.

Notices to be Prepared and Served by Applicant.

64.—(1) Where upon any proceeding before a Master a notice is required to be given, it shall be the duty of the person in respect of whose application the notice becomes necessary to pay the proper fees for preparing the notice and to prepare the requisite copies, and (unless the Master shall direct service by mailing) to see that such notice is duly served, unless the Master shall direct that such duties, or any of them, shall be performed by any other person interested in the application or interested in opposing the same.

Rule 54, made under Imp. Act 38 and 39 V. c. 87.

(2) The provisions of this rule, so far as conveniently may be, shall apply to any proceedings to be taken prior to the entry of a patentee under section 169 of *The Land Titles Act* or his assignee, and in such proceedings the patentee or his assignee shall be deemed to apply for first registration. Nothing in this subsection contained shall prevent a Master from himself assuming the performance of any of the duties or services required to be performed prior to the registration of a patentee or his assignee, but this shall not relieve the patentee or his assignee of the obligation to thereafter pay the proper fees payable to the Crown or to the Master for his fees or for his disbursements in respect of any such duty or service.

Service where a Solicitor Acts.

65.—(1) Where a party is represented in the office of a Master by a solicitor, all notices, orders, appointments and other documents which do not require personal service, shall be served upon such solicitor when residing in Toronto, or if the said solicitor does not reside in Toronto then either upon his solicitor, or if such solicitor does not reside in the county or district where such proceedings are conducted, then upon the agent (if any) named in the "Solicitors' and Agents' Book," provided for by Rule 92 of the Rules of Practice and Procedure of the Supreme Court of Judicature for Ontario, or upon the said solicitor's Toronto agent named in the "Solicitors' and Agents' Book," provided for by Rules 90 and 91 of said Rules, unless the Master before whom any such proceeding is had shall give any direction as to the solicitor upon whom any such notice, order, appointment or other document is to be served.

(2) Where any solicitor has not caused an entry of the name of an agent to be made in either of the said books, as provided for by the said Rules, then the mailing of any such notice, order, appointment or other document, addressed to the office of such solicitor, post paid and registered, shall be deemed a sufficient service upon the date of such mailing, unless the said Master otherwise directs.

Address Book.

66. The addresses furnished under section 113 shall be entered in an address book to be kept in each Land Titles office for that purpose. The entry shall be signed by the party or his solicitor.

Discretionary Power of Master.

Rule 55, made
under Imp.
Act 38 and 39
V. c. 87.

67.—(1) The Master of Titles, if he thinks fit, may extend the time limited by general rules for any purpose, and where the signing or execution of any document or instrument, or any act is required by such rules to be attested and verified or done by a solicitor, may accept such document or instrument though not so attested or verified, and may give such directions in respect of such act though not so done, as he may think fit, and upon such terms and conditions (if any) in every such case as he may think proper, and may except and register documents which are irregular in form.

(2) If at any time the Master is of opinion that any further or other evidence is necessary or desirable, he may refuse to enter the instrument or dealing in the register until such further or other evidence has been produced.

Indexes, Inspection and Extracts.

68. There shall be kept by the Master of Titles alphabetical indexes corresponding as nearly as may be to the indexes provided for by *The Registry Act*; and any person may inspect the said indexes or the entries in the register. The names of the transferors of any land or of the makers of any charge or of documents by virtue of which cessation of incumbrances or leases are notified need not be entered in the said indexes.

Rule 57, made
under Imp.
Act 38 and 39
V. c. 87.

69. All copies or extracts from any register or document in the custody of the Master of Titles relating to any land or charge, shall be made by a clerk in the office. No document not referred to in the register of the existing ownership shall, without the consent of the Master of Titles, be inspected by any person other than the registered owner or any one having his written consent.

Certificate of Search.

Rule 7 (j),
made 1st Jan.,
1889, under
Imp. Act 38
and 39 V. c. 87.

70. A Master shall have power to issue a certificate of search in such form as he thinks fit to any person desiring the same.

Forms.

Rule 58, made
under Imp.
Act 38 and 39
V. c. 87.

71.—(1) The forms in the schedule hereto shall be used in all matters to which they refer or are capable of being applied or adapted, with such alterations and additions only as are necessary to meet the circumstances of each case; but no recital, reservation, covenant, declaration or other provision not referred to in or required by such forms, shall be inserted therein, unless the Master under special circumstances otherwise directs.

(2) Official copies of the forms may be supplied through the office, and may, where practicable, be used in all matters to which the forms relate.

(3) The Master may reject any document which is informal, or which he may consider is not in accordance with this rule.

Tariff of Fees.

72. The fees set forth in the Tariff of Fees authorized by the Lieutenant Governor in Council upon the 19th day of July, 1897 shall be the fees payable to the Master and Local Masters of Titles in respect of proceedings and business under the Act until altered or revoked under the authority of the Act.

Receiving and Fee Book and Suspense Book.

73.—(1) The Master and each Local Master shall keep books to be called respectively, "The Receiving and Fee Book," and "The Suspense Book"; such books to be in the form now used in the office of Land Titles at Toronto.

(2) There shall be entered in the Receiving Book :

(a) Forthwith upon receipt thereof all instruments received for registry.

(b) Forthwith upon receipt thereof all fees received (except fees in respect of matters entered in the procedure books), whether payable in cash or stamps. The fees shall be entered so as to show the separate items of service, as, *Registration*, \$2; *Land certificate* \$1; *Search*, 20c.; *Certified copy of transfer A to B, No. 400*, \$1, etc., etc.

(3) Upon the completion of the entry of an instrument in the register, such completion shall be noted in a column provided for that purpose in the receiving book, and from time to time the Master shall enter from the said book into the suspense book all instruments whose registration is delayed, and shall in the said column note the fact of such instruments having been transferred to the suspense book.

(4) There shall be entered from the receiving book into the suspense book all instruments whose registration cannot be completed forthwith after the receipt thereof, on account of the pendency of proceedings upon cautions or for any other reason.

(5) From time to time, as the registration of all instruments entered on a page of the receiving book or their transfer to the suspense book is completed, the Master, if all instruments previously entered have been registered or transferred to the suspense book, shall rule a diagonal line across such page so as to indicate to persons desiring to examine such book that all instruments previously entered therein have been registered, rejected or transferred as aforesaid. The pages of the suspense book shall be dealt with in like manner, when the instruments entered thereon are disposed of.

Book for Cautions by Executors and Administrators under Devolution of Estates Act.

74.—(1) In each Land Titles Office there shall be kept a book to be called "The Executors and Administrators Caution Book," in which shall be registered all cautions which may be lodged by executors and administrators under sections 13 and 14 of *The Devolution of Estates Act*, and no such caution need be entered on the register of any particular parcel of land specified therein.

(2) The entries in the said books shall be indexed under the name of the testator or intestate mentioned in the caution.

Fees and Law Stamps.

75.—(1) All fees payable to the Master of Titles shall be paid in Law Stamps.

(2) With the exceptions hereinafter mentioned, the fees payable to a Local Master shall likewise be paid in Law Stamps, if there is an officer appointed for the sale of the Law Stamps in the town or place where the Local Master's office is situated.

(3) Where there is no such officer the fees shall be paid in cash and transmitted by the Local Master to the Provincial Treasurer, at such times as the Treasurer may appoint.

(4) In Algoma, Thunder Bay, Rainy River, Muskoka, Parry Sound, Nipissing and Manitoulin, the fees payable to any Local Master therein shall be paid in cash, whether there is or is not an officer at the town or place, appointed for the sale of Law Stamps, and the amount so paid shall be transmitted by the Local Master to the Provincial Treasurer as aforesaid.

(5) No entry shall be made on the register before the stamps (if any) in respect of the fees payable by stamps under the Act, and any rules thereunder, have been impressed or affixed on some document sent to or lodged in the office with reference to the proposed registration, or as the Master of Titles shall direct, nor before all expenses payable under the Act and rules have been provided for.

(6) Every officer of the land registry who shall receive any document to or upon which a stamp shall be affixed or impressed, under the Act or rules, shall, immediately on the receipt of such document, cancel the stamp thereon, as provided by *The Act respecting Law Stamps*

(7) The Master of Titles may refuse to receive in the office any document requiring to be and not duly stamped.

76.—(1) All fees received in respect of applications for first registration and other matters entered in the procedure books shall, upon the application or other matter being disposed of, forthwith be entered in the receiving and fee book, thus : *Fees re Jones, procedure book, page 25, \$4.50*, and a note shall be made in the procedure book shewing the fact of the said entry having been made and the date thereof.

(2) Where any matter entered in the ordinary procedure book or special application procedure book, is pending on 31st day of December in any year, the fees in such matter up to and including the said day, shall be entered in the receiving and fee book and a note thereof made in the procedure book. In that case, the entry on the matter being disposed of made in the receiving book under the preceding subsection, shall be "For balance of fees."

Annual Return of Fees.

77.—(1) Every Master shall, on or before the 15th day of January in each year, make a return in duplicate to the Inspector of Titles, under oath, of all fees received by him up to and including the 31st day of December of the previous year.

(2) Until an Inspector of Titles is appointed, the said return shall be made by each Local Master to the Master of Titles, and by the Master to the Lieutenant-Governor.

Applications to Court and Appeals.

78.—(1) Upon any application to the Court being made on the requirement of or appeal from the Master of Titles, or for the rectification of the register under section 119, a statement (Form 51) shall be prepared by the applicant and settled and signed by the Master of Titles, and forwarded to the court through the office before the hearing.

Rule 59, made under Imp. Act 38 & 39 V. c. 87.

(2) All applications to the Court and appeals from the Master of Titles shall be in the same manner and subject to the same regulations (as nearly as may be) as appeals from the Master in Chambers under *The Judicature Act* and Rules, except that the notice of appeal shall be served within 7 days after the decision complained of, or within such further time as may be allowed by a Judge of the High Court or by the Master of Titles, and the motion shall be made within 14 days after the said decision, or within such time as may be allowed as aforesaid.

(3) No appeal from a decision or order of the Master of Titles, or of the Court, shall affect any dealing for valuable consideration duly registered before a notice in writing of such appeal has been lodged in the office on the part of the appellant, and a note thereof made, on his application in the register.

(4) No appeal shall be brought from a decision or order of the Court after 28 days from the date of such decision or order, without leave of the Court.

Service upon Master.

79. Service of any order, or official copy of an order, of any Court on the Master of Titles, shall be made by leaving the same in the office, and an application shall be left at the same time for the rectification of the register being made, or any other act being done, in accordance with such order, and the matter shall be proceeded with as the Master of Titles shall direct.

Hours of Attendance.

80.—(1) Unless on Saturdays, and during the Long Vacation, and as hereinafter provided, the offices of Land Titles shall be open from the hour of ten in the forenoon until four in the afternoon every day in the year, Sundays and holidays excepted. On Saturday, except during the Long Vacation, the said offices shall be open from ten in the forenoon till two o'clock in the afternoon.

(2) During the Long Vacation the said offices shall be open from nine in the forenoon till one in the afternoon.

(3) Where a Local Master is also Register of lands his Land Titles office shall be open during the same hours as the registry office is required to be open.

Local Masters.

81. Unless where in any rule the contrary is expressed, and subject to the provisions of sections 136, 166 and 167 of *The Land Titles Act*, the foregoing Rules shall apply to Local Masters of Titles and to the conduct of their offices with the substitution of the name of the place where the office of the Local Master is kept for "Toronto" where "Toronto" occurs in Rule 62, except that the time to be limited by any notice issued by a Local Master in a district, which is for service out of the district town, or other place, where the Master's office is kept, shall be double the time named by the said Rules for a like notice to be issued by the Master of Titles, unless the Local Master shall for special reasons otherwise direct.

Repeal of Former Rules.

82. All rules heretofore made under the said Act are hereby annulled.

SCHEDULE OF FORMS.

1.—Form of Application for first Registration of Ownership.

(Sections 5-9, Rules 1-3.)

LAND TITLES ACT.

Form 1 under
Imp. Act 38 &
39 V. c. 87.

A. B., of, etc., being entitled for his own benefit to an estate in fee simple in the land (or as the case may be, according to sections 5 to 9 of the Act), in the township of _____, in the County of York, called or known as _____, containing by estimation _____ and described as follows (or described in the schedule hereto, as the case may be) applies to be registered _____ (or where applicable, to have registered in his stead *C. D.*, of, etc.), as owner of such land (or leasehold land) with (in the case of freehold land) a Possessory title (or with an Absolute title, or, in the case of leasehold land with or without a declaration of the lessor's title to grant the lease, as the case may be).

Subject to the following charges and incumbrances (where the property is incumbered).

The address of the said *A. B.* (and *C. D.* respectively), for service is at _____ (if the application is made through a solicitor, the office of such solicitor should be given.)

Dated this _____ day of _____, 18 ____.

(Signature of the applicant or his solicitor.)

The above mentioned *C. D.* (or the vendor or the person whose consent is required to the execution of the trust or power to sell) hereby consents to the above application.

(Signature of *C. D.*, or of the vendor or his solicitor or of the other consenting parties.)

2.—Applicant's Affidavit where Absolute Title is applied for.

(Rule 4.)

LAND TITLES ACT.

I, _____ of _____ make oath and say :—

1. I am the absolute owner in fee simple in possession (or as the case may be, repeating the words of the application) of the following land (describing the property) being the land mentioned in my application.

2. There is no charge or other incumbrance affecting my title to the said land (except, stating any incumbrances which may exist.)

3. I am not aware of any claim adverse to or inconsistent with my own to any part of the land claimed by me or to any interest therein (except, *specify the adverse claim, if any, giving the name and address of the claimant if known, and stating how the claim arises*).

4. The deeds, instruments and evidences of title which I produce in support of my application, and of which a list is set out in schedule A hereto annexed, are all the title deeds, instruments and evidences of title relating to the said land which are in my possession or power.

5. The title deeds and evidences of title relating to the said land which are set out or mentioned in schedule B hereto annexed, are in the possession or power of (*naming the person*).

6. I do not know where, or in whose possession or power the title deeds and evidences of title set out or mentioned in schedule C hereto annexed are. For the said last mentioned title deeds I have caused the following searches to be made (*set out the facts shewing the searches which have been made for the missing deeds and upon which it is intended to rely as sufficient to let in secondary evidence. Where there are no other title deeds, etc., except those named in schedule A, this fact should be stated and the fifth and sixth paragraphs of this form omitted*).

7. I am (or A. B. is *shew under what claim or title*) in possession of the said land, and to the best of my knowledge and belief possession has always accompanied the title under which I claim, since the year when one , through whom I claim, took possession, and prior thereto the land was in a state of nature (*if possession has not always accompanied the title under which the petitioner claims, state correctly the facts as to the actual possession*).

8. I am now in actual occupation of the said land (*or if a tenant of the applicant is in occupation, state how he claims to hold and how he in fact holds; if the tenancy is under an instrument in writing this instrument should be produced. If not under an instrument in writing this fact should be stated. If no one is in actual operation state the fact*).

9. To the best of my knowledge, information and belief this affidavit and the other papers produced herewith in support of my application, and which are set forth in the schedules hereto, fully and fairly disclose all facts material to my title, and all contracts and dealings which affect the same or any part thereof or give any right as against me. (*Vary these statements according to the facts.*)

10. There are no arrears of taxes due upon the said land, nor has the said land, been sold for taxes during the past eighteen months, nor under execution during the past six months, and I do not know of any writs of execution in the hands of the sheriff against me, or affecting the said lands. [*See Cap. 136, s. 90.*]

11. To the best of my knowledge, information and belief, no person or body corporate has any right of way, or of entry, or of damming back water, or of overflowing, or of placing or maintaining any erection, or of preventing the placing or maintaining any erection, on, in, to or over the said land, other than myself (*except, giving the names and addresses of any parties having any easement or right, and stating the particulars and nature thereof*), and the said land is not subject to any right of way or to any other easement or dominant right whatever (*except as aforesaid*).

12. The said land is not worth more than \$

13. I am married, and the name of my wife is (*or I am not married*).

3.—*Applicant's affidavit where Possessory Title applied for.*

(Rule 2.)

LAND TITLES ACT.

I A. B. of, etc., make oath and say :—

1. I am, to the best of my knowledge, information and belief, the absolute owner in fee simple in possession (or as the case may be, repeating the words of the application) of the following land (describing the property either by reference to a schedule or otherwise) being the land mentioned in my application.

2. As I verily believe the foregoing (or annexed) description is correct.

3. There is no charge or other incumbrance affecting my title to the said land (except—stating any incumbrance which may exist and also stating as to each such incumbrance whether or not the same is registered and if registered giving the registration number).

4. I am in possession of the said land and am now in actual occupation thereof (or if a tenant of the applicant is in occupation state how he claims to be entitled to hold, or if the land is vacant state this fact).

5. I verily believe that I am entitled under *The Land Titles Act* to be registered as the owner of the said land.

6. The last conveyance (or conveyances or document or documents) under which my title is derived is (describing shortly the instrument or instruments under which the title passes directly to the applicant) and I produce the same. (If the applicant is unable to produce such instrument or instruments explain the cause of his inability).

7. The said land is not worth more than \$

Sworn, etc.

4.—*Certificate of Justice of the Peace.*

(Rule 2.)

LAND TITLES ACT.

I C. D. of the Town, etc., a Justice of the Peace in and for the County of do hereby certify.

1. That I am acquainted with A. B. who proposes to apply to be registered under *The Land Titles Act* as owner (or as the case may be of the following land namely, (describing the land as in the application).

2. That I believe him to be entitled to the said land as the owner thereof (or as the trustee with power to sell the same or otherwise, in accordance with the title under which applicant applies to be registered).

5.—*Form of first entry of Ownership in the Register.*

(Section 13.)

LAND TITLES ACT.

A. B., of _____ is the owner in fee simple of (*description of property*), subject to the exceptions and qualifications mentioned in section 13 of *The Land Titles Act*, (and numbered therein as the case may be, if the title is free from some of them).

In witness whereof I have hereunto subscribed my name this
day of _____, A.D., 18 _____

(Signed)

Where an easement is enjoyed with the land, say :

Together with a right of way on foot, or with horses, carriages, and other vehicles, over and upon the lane adjoining the said land, at the west side thereof (*or according to the fact*).

Where title is Possessory, say :

The title of *A. B.* is subject to the claims (if any) which can be enforced to the said land by reason of any defect in the title of (*name of the first registered owner*) prior to the _____ day of _____ 18 _____, being the date of the first registration of said land.

Where the land is subject to a Life Estate, say :

The title of *A. B.* is subject to the life estate of *G. H.* of _____ in the said land.

And if subject to a Mortgage, say :

The title of *A. B.* is subject to a mortgage dated the _____ day of _____, made by *A. B.* to *W. B.*, to secure \$3,000 and interest at the rate of 6 per cent. per annum from the 17th day of July, 18 _____, payable as therein mentioned. [*If registered give particulars of registration.*]

Where the land is subject to a Lease, say :

The title of *A. B.* is subject to a lease, dated the _____ day of _____ made by *A. B.* to *Y. Z.*, for the term of ten years from the said date.

6.—*Form of Register of Leasehold.*

(Section 19.)

LAND TITLES ACT.

A. B., of _____, is entitled to an estate for the term of his natural life in (*description of land*) mentioned and described in the Register for the Township of York, as Parcel 490. but subject to the liabilities and exceptions mentioned in section 21 of *The Land Titles Act*. And it

is hereby declared that the lessor in the said lease named, had an absolute title to grant the lease creating the said term (*or as the case may be*).

In witness whereof, etc.

(*Where title of original registered owner is possessory say*) The title of *A. B.* is subject to the claims (if any) which can be enforced against the said land by reason of any defect in the title of the said *A. B.* (*or other person who was the first registered owner*) prior to the day of 18 , being the date of the first registration of the said land.

(*Where estate is mortgaged say*) The title of *A. B.* is subject to a mortgage dated the day of , made by the said *A. B.*, to *C. D.* to secure \$800 and interest at the rate of 6 per cent. per annum as therein mentioned, and which was assigned by *C. D.* to *E. F.* by deed, dated, etc. (*If mortgage registered give particulars of registration.*)

NOTE.—*If the dealings in reference to any particular incumbrance are numerous the incumbrance can be transferred to a new folio to which reference can be made. See Rule 56 (8).*

7.—*Form of Certificate of Ownership.*

(*Rule 40.*)

LAND TITLES ACT.

This is to certify that *A. B.* is the owner (*etc., in terms of the entry in the register.*)

8.—*Sheriff's Certificate.*

(*Rule 6.*)

Sheriff's Office, County of

day of

18

I hereby certify that I have not at the date hereof in my office any writ of execution against the lands of (*or any or either of them*), nor are there any outstanding for renewal or with return of lands on hand for want of buyers or to the like effect.

~~and~~ I further certify that I have not sold lot in the concession of the township of under any writ of execution for six months preceding the date hereof.

F. M.,
Sheriff.

9.—*Certificate as to Taxes.*

(*Rule 7.*)

Treasurer's Office, County of

day of

18

I certify that no charge for arrears of taxes, charges or assessments, or for water or other rates appears at the date hereof in the books of this office against (*shortly describing the land.*)

I further certify that the returns of lands in the village of in arrears for taxes for the year 18 and for all previous years have been made to this office,

And I further certify that the said land has not been sold for taxes for eighteen months preceding the date hereof.

S. B. H.,
Treasurer.

C. D., of, etc., hereby gives notice that he objects to the registration of A. B., under the Land Titles Act, as the owner of the land called or known as _____, comprised in the above application.

The particulars of the objection of the said *C. D.*, are *(here state concisely particulars of objection.)*

The address of the said *C. D.*, for service is *(here give address.)*

Dated this day of 18 .

(Signature of the objector or his solicitor.)

13.—*Affidavit of Publication of Advertisement.*

(Rule 10.)

LAND TITLES ACT.

In the matter of the application of *E. F.*

I, *A. B.* of, *etc.*, make oath and say :

1. The advertisement of which a duplicate is hereto annexed, and marked A, appeared and was published in the issues of the *Ontario Gazette* of the and days of 18

2. The advertisement of which a duplicate is hereto annexed, and marked B, appeared and was published in the issue of the newspaper of the day of 18

3. The advertisement of which a duplicate is hereto annexed and marked C, appeared and was published in the issue of the newspaper of the day of 18

4. I have examined copies of the said *Gazette* and newspapers issued on each of the said days.

Sworn, *etc.*

14.—*Affidavit of Posting up Advertisement in the Court House.*

LAND TITLES ACT.

In the matter of the application of *E. F.*

I, *A. B.* of, *etc.*, make oath and say :

1. I did on the day of , post up in a conspicuous place in the Court House in the Town of , a true copy of the advertisement hereto annexed marked D, the copy so posted up being a cutting from the newspaper.

2. The said advertisement so posted up by me as aforesaid remained affixed up in the said place for the full period of one month, as I verily believe, *(state the reasons for this belief)*.

3. The said Court House is the Court House of the County in which the lands in question in this matter are situated.

Sworn, *etc.*

15.—*Affidavit of Posting up Advertisement at the Nearest Post Office.*

LAND TITLES ACT.

In the matter of the application of *E. F.*

I, *A. B.* of, *etc.*, make oath and say :

1. I did on the day of , post up in a conspicuous place in the post office, in the village of , a true copy of the advertisement hereto annexed marked *D.*, the copy so posted up being a cutting from the newspaper.

2. The said advertisement remained where it was posted up by me continuously for the full period of one month, as I verily believe, (*state the reasons for this belief.*)

3. The post office in the village of is the post office nearest the land in question in this matter.

Sworn, *etc.*

16.—*Caution under Section 85 against First Registration.*

(*Rule 20.*)

LAND TITLES ACT.

I, *A. B.*, of *etc.*, have such an interest in the land hereinafter particularly described as entitles me to object to any disposition thereof being made without my consent, and I am entitled to notice of any application that may be made for the registration of such land. Form 11 made under Imp. Act 38 & 39 V. c. 87.

The following is a particular description of the said land, that is to say, (*here insert description of land to be affected by the caution.*)

My address for service of notice is , in the of in the County of ; my post office address is

Dated this - day , 18 .

(*Signature of the cautioner or his solicitor.*)

17.—*Affidavit in support of Caution lodged before First Registration under Section 85.*

(*Rule 20.*)

LAND TITLES ACT.

I, *A. B.*, of *etc.*, make oath and say as follows :

My interest in the land described in the above (or annexed) caution entitles me to object to any disposition of the said land being made without my consent, and the nature of such my interest is as follows : *here state particulars of cautioner's interest.* Form 12 made under Imp. Act 38 & 39 V. c. 87.

Sworn, *etc.*

18.—*Notice to Cautioner where caution lodged before Registration.*

(Section 88, Rule 22.)

LAND TITLES ACT.

Form 13 made
under Imp.
Act 38 & 39
V. c. 87.

Take notice that *C. D.*, of, etc., has applied to be registered (or to have registered in his stead *E. E.*, of etc.) as owner of the land in the _____ of _____, in the county of *York*, affected by the Caution dated the _____ day of _____, 18____, lodged by you in the Office of Land Titles at *Toronto*; and if you intend to oppose such registration, you are to attend either in person or by your solicitor or counsel for that purpose before me at the said office on the _____ day of _____ 18____ at _____ o'clock in the _____ noon.

Signature of the Master of Titles and Official Seal.

To

19.—*Caution under Section 75 after Registration.*

(Rule 21.)

LAND TITLES ACT.

Form 14 made
under Imp.
Act 38 & 39
V. c. 87.

I, A. B., of etc., being interested in the land registered in the name of *G. H.*, as Parcel 40 in the Register for the Township of *York* (or in the charge registered as No. _____, in the name of *E. F.*, of, etc., as owner and being on Parcel 40 Township of *York* [as the case may be],) require that no dealing with such land (or charge) be had on the part of the registered owner until notice has been served upon me.

My address for service of notice is lot _____, in the _____ concession, in the County of _____, and my Post Office address is _____

Dated this _____ day of _____, 18____.

Signature of the cautioner or his solicitor.

20.—*Affidavit in support of Caution lodged after Registration under Section 75.*

(Rule 21.)

LAND TITLES ACT.

Form 15 made
under Imp.
Act 38 & 39
V. c. 87.

I, A. B., of, etc., make oath and say, as follows :—

I am interested in the land (or charge), mentioned in the above (or annexed) caution and the particulars of my interest are as follows [here state particulars].

Sworn, &c.

21.—*Application for Notice to Terminate Caution in respect of land.*

(Section 76, Rule 22.)

A. B. the registered owner (or the transferee of *C. D.* the registered owner) of the land registered as Parcel 486 in the register of Land Titles for the Township of *York* in the name of the said *A. B.* (or *C. D.*) applies

Dated this day of A.D. 18 .
X. Y.,
Solicitor for A. B.

WITNESS :
E. F.

24.—*Affidavit attesting Execution of Withdrawal of Caution.*

(Rule 22.)

LAND TITLES ACT.

I, *G. H.*, of *etc.*, a solicitor of the Supreme Court of Judicature (*or as the case may be*) make oath and say:—

I am well acquainted with *A. B.* named in the above withdrawal of caution, and the signature purporting to be his signature at the foot of the said document is in his handwriting. I believe the said *A. B.* to be the person who registered the caution referred to in the said document.

The said *A. B.* is of the age of 21 years or over and is of sound mind and signed the said document voluntarily at Toronto, in the Province of Ontario (*or as the case may be*).

I am a subscribing witness to the said document.

Sworn, *etc.*

25.—*Application for Inhibiting Order under Section 81.*

(Rule 23.)

LAND TITLES ACT.

From 17 made under Imp. Act 38 & 39 V. c. 87. *C. D.*, of *etc.*, being interested in the land registered in the office of Land Titles at , in the name of as Parcel in the register for the township of , (*or in charge No.* registered the day of 18 , in the name of on the land, *etc.*, as the case may be) hereby requests the Master to inhibit until further order or entry (*or otherwise, as the case may be,*) any dealing with the said land (*or charge*).

The grounds of this application, and evidence to be produced in support thereof, are stated (*or referred to*) in the affidavit of the said *C. D.* (*or of E. F.*, the solicitor of the said *C. D.*) filed herewith.

The address of the said *C. D.* for service is (*here state address*.)

Dated, *etc.*

(*Signature of C. D. or his solicitor.*)

Affidavit to be filed stating particulars of applicant's title.

26.—*Application under Section 82 to Register Restriction.*

(Rule 24.)

LAND TITLES ACT.

Form 18 made under Imp. Act 38 & 39 V. c. 87. *A. B.*, the registered owner of the land registered in the office of Land Titles at as Parcel in the register for the township of requests the Master to make an entry in the register that no transfer shall be made of, or charge created on such land, unless [*here insert the terms of the restriction required to be entered*].

Dated the day of 18 .

(*Signature of owner.*)

27.—*Application under Section 83 to Withdraw or Modify Restriction.*

(Rule 24).

LAND TITLES ACT.

A. B., the registered owner of the land registered in the office of Land Titles at _____ as Parcel _____ in the register for the township of _____, under Imp. *C. D.*, of, *etc.*, and *E. F.*, of, *etc.*, request that the restriction on transferring or charging the said parcel on the register, a note whereof was made on the register on the _____ day of _____ 18____, may be withdrawn, (or modified in the following manner, *here state the nature of the modification required.*)

Dated the _____ day of _____ 18____

*(Signatures of *A. B.*, *C. D.*, *E. F.*, *etc.*)

Witness to all the signatures,

X. Y.,

*The applicants must be all the persons interested in the restriction.

28.—*Charge or Mortgage with bar of Dower.*

(Sections 33-39, Rule 25.)

LAND TITLES ACT.

I, *A. B.*, the registered owner of the land entered in the office of Land Titles at _____, as Parcel _____ in the register for _____, under Imp. in consideration of (\$2,000) paid to me, charge such land with the payment to *C. D.* of, *etc.*, on the _____ day of _____ 18____, of the principal sum of (\$2,000) with interest at the rate of _____ per cent. per annum, and with a power of sale to be exercised after default, and _____ months' subsequent notice of the intention to sell, (or as the case may be.) *Add any covenants which are agreed to and are not implied under the Act or otherwise.*

I, E. B., wife of the said *A. B.*, hereby bar my dower in the said land.

This charge is made in pursuance of "The Act respecting Short Forms of Mortgages," (where it is desired that the Covenants, *etc.*, should operate under that Act.)

Dated the _____ day of _____ 18____

(Signatures of *A. B.* and *E. B.*)

Witness,

X. Y.

(No seal necessary.)

NOTE.—If no interest is to be payable, or no power of sale given, substitute the words "without interest," or "without a power of sale," as the case may be. For affidavits of execution see Forms 46 and 47, and where executed under power of Attorney see Form 48.

29.—*Transfer of Charge or Mortgage.*

(Section 57.)

LAND TITLES ACT.

I, *C. D.*, the registered owner under the Land Titles Act, of the charge dated the _____ day of _____ 18____, made by *A. B.*, *etc.*, and registered as number _____ charging the land registered as Parcel _____, Township of _____ York (as the case may be) in consideration of (\$2,000) paid to me, transfer such charge to *E. F.*, of, *etc.*, as owner.

[Where the charge is transferred upon an agreement to re-transfer the same upon the payment of a sum of money or upon the performance of any other conditions agreed upon, insert :

A. B. hereby agrees that he will, upon payment to him of the sum of \$ on the day of 18 , with interest thereon at per cent, from the day of 18 , re-transfer the said charge to the said C. D. or as the case may be.]

Dated the day of 18 .

(Signature of registered owner of charge.)

Witness,
X. Y.

(No seal necessary.)

30.—Transfer of Freehold or Leasehold Land.

(Sections 41-56. Rule 30.)

LAND TITLES ACT.

Form 23 made
under Imp.
Act 38 & 39
V. c. 87.

I, A. B., the registered owner of the land (or leasehold land) registered in the office of Land Titles at , as Parcel 6, Township of York (as the case may be), in consideration of (\$1,000) paid to me, transfer such land to C. D., of, etc.

Dated the day of 18 .

(Signature of registered owner.)

Witness,
X. Y.

(No seal necessary.)

NOTE.—For affidavit of execution, see Forms 46 and 47, and where under Power of Attorney, Form 48.

31.—Transfer of Freehold or Leasehold Land in Parcels.

(Sections 41-56, Rule 30.)

LAND TITLES ACT.

Form 24 made
under Imp.
Act 38 & 39
V. c. 87.

I, A. B., the registered owner of the freehold (or leasehold) land registered in the office of Land Titles at as Parcel in the register for North West Toronto, in consideration of \$1,500 paid to me, transfer to C. D., of, etc., the land hereinafter particularly described, namely, (describe portion transferred) being part of the said parcel.

And I, E. B., wife of the said A. B., hereby bar my dower in the said land.

Witness,
X. Y.

(Signatures.)

(No seals necessary.)

NOTE. For affidavit of execution, See Forms 46 and 47, and where under power of Attorney, Form 48.

32.—*Special Application to notify Cessation of Incumbrance or Lease created before first Registration.*

(Section 30, Rule 35.)

LAND TITLES ACT.

A. B., the registered owner of the land entered in the register for as Parcel hereby requests the Master to notify on the register the cessation of the incumbrance (*describing it*) (*or the determination of the lease, describing it,*) entered upon the register, the same being discharged (*or determined*), as appears by the abstract of title marked B. (*or as appears from the receipt endorsed upon the instrument of incumbrance, or otherwise, as the case may be*), and the affidavit of lodged herewith.

Form 28 made
under Imp.
Act 38 & 39
V. c. 87.

Dated the day of 18 .

(Signature of A. B. or his Solicitor.)

33.—*Certificate of Mortgagee authorizing the entire or partial Discharge of a Mortgage created before first Registration.*

(Section 30, Rule 35.)

To the Master of Titles :

I, A. B., of, etc., do certify that C. D., has satisfied all (or \$, part of) the money mentioned in a certain mortgage for the sum of \$, made by the said C. D. to me (*or according to the fact*) which mortgage bears date the day of A. D. 18 , and was registered in the registry office for as number and that such mortgage has not been assigned (*or, that such mortgage was assigned as follows, stating the particulars of the assignment,* and that the said mortgage has not been further assigned,) and is entered in the office of Land Titles at Toronto upon Parcel 46 in the Register for North West Toronto.

And I further certify that I am the person entitled by law to receive the said money, and I hereby authorize the Master of Titles to discharge the said mortgage (*or such sum of money as aforesaid or to discharge from the said mortgage the following lands [describe lands to be released] being portion of the lands included in the said mortgage.*)

Dated the day of 18 .

Witness {
E. F. }

A. B.
(No seal necessary).

LAND TITLES ACT.

I, A. B., above named make oath and say that I am the owner of the above mentioned mortgage and the statements contained in the above certificate are true.

Sworn, etc.

A. B.

37.—*Application for Registration of Notice of Lease, or Agreement for Lease.*

(Sections 72 and 73. Rule 36.)

LAND TITLES ACT.

C. D., of, etc., being interested in the land entered in the register for Form 30 made as Parcel , of which *A. B.* is the registered owner, by reason of the lease (or agreement for a lease) annexed hereto, hereby requires the Master of Titles to enter a notice of the said lease (or agreement) upon the register.

A. B., the registered owner of the above land, concurs in this application.

The address of the said *C. D.* for service is (*here give address*).

Dated this day of 18 .

Witness to the signature of *C. D.*,

E. F.

Witness to the signatures of *A. B.*

X. Y.

} *Signatures of C. D. and A. B.*

38.—*Notice of execution against an owner registered under a different name.*

(Section 64, sub-s. 7.)

LAND TITLES ACT.

To the Master of Titles:

Take notice that *A. B.*, against whom a writ of execution was issued out of the High Court of Justice on the day of 18 , for the sum of \$ at the instance of *C. D.*, is the registered owner of lands in the County of *York*, under the name of *A. G.*, being the name of the said *A. B.* before her marriage with *G. B.*, her present husband (*as the case may be*).

E. F.,

Solicitor for *C. D.*

39.—*Form of Transfer of Land under writ of Fieri Facias.*

(Section 67.)

LAND TITLES ACT.

I, , Sheriff of , in pursuance of a writ of *fieri facias*, tested the day of , and issued out of (*insert name of Court*) in an action wherein is the plaintiff, and the defendant, which said defendant is registered under the Land Titles Act, as the owner of the land hereinafter described, subject to the exceptions, qualifications, mortgages and incumbrances (*or as the case may be*), notified hereunder, do hereby, in consideration of the sum of \$ paid to me, as Sheriff aforesaid, by *E. F.*, of, etc., (*insert addition*), transfer to the said *E. F.* all that piece of land (*here insert a sufficient description of the land and refer to the number of the parcel under which the property is registered.*)

Dated the day of , 18 .

Signature of Sheriff.

(No seal necessary.)

Exceptions, qualifications, mortgages and incumbrances referred to. (*State them.*)

40.—*Application under Rule 31 for entry to be made in Register, negating Covenants implied under Section 56 on Transfer of Leasehold Land.*

LAND TITLES ACT.

Form 25 made
under Imp.
Act 38 & 39
V. c. 87.

A. B., the registered owner of the land registered as Parcel in the register for and *C. D.*, of, etc., the transferee named in the instrument of transfer dated the day of 18 , and lodged herewith, request the Master of Titles to make an entry in the register to the effect following; that is to say (*here state the implied covenants to be negated.*

Dated the day of 18 .

(*Signature of Transferor and Transferee.*)

Witness to both signatures,
X. Y.

41.—*Transmission of Registered Ownership of Freehold Land.*

(*Application under Sections 59 and 61. Rules 33 and 34.*)

LAND TITLES ACT.

Form 26 made
under Imp.
Act 38 & 39
V. c. 87.

A. B., the registered owner of the land entered in the register for as Parcel died on the day of , 18 , (*or otherwise as the case may be*), *C. D.*, of, etc., being interested in the said land, applies to be registered (*or to have E. F.*, of, etc., registered), as owner of the said land.

The interest of the said *C. D.* (*or E. F.*), and the existing rights of the several other persons interested in the said land, are stated in the affidavit* of the said *C. D.* and *G. H.*, of, etc., the solicitor of the said *C. D.* filed herewith. The other evidence in support of this application is left herewith, and consists of (*here state of what evidence consists*).

The address of said *C. D.* is, (*here give address*).

Dated the day of 18 .

(*Signature of C. D. or his Solicitor.*)

*Affidavit, etc., to be left with application.

42.—*Transmission of Registered Ownership of Charge or Leasehold Land on Death of Owner.*

(*Application under Sections 60 and 61. Rules 33 and 34.*)

LAND TITLES ACT.

Form 27 made
under Imp.
Act 38 & 39
V. c. 87.

A. B., the registered owner of the leasehold land registered as Parcel 45 (*or charge, dated the day of 18 , on the land, etc., as the case may be, giving the number in the register*), died on the day of 18 , *or otherwise as the case may be within section 60 of the Act*), *C. D.*, of, etc., is entitled to the said land (*or charge*), and applies to be registered as the owner thereof accordingly.

The evidence in support of the above application consists of [*here state the evidence to be lodged herewith*].

The address of the said *C. D.* is (*here give address*).

Dated the day of 18 .

(*Signature of C. D., or his Solicitor.*)

43.—*Application under Section 74 as to Dower or Curtesy.*

(*Rule 34.*)

LAND TITLES ACT.

C. D., of etc., being entitled to an estate in dower (*or by the curtesy*), Form 28 made in the land registered as Parcel in the register for the , under Imp. and of which land *A. B.* is the registered owner, applies that notice of Act 38 & 39 this estate may be entered on the register. V. c. 87.

The existing rights of the several persons interested in the said land are stated in the affidavit* of *C. D.* and *G. H.*, the solicitor of the said *C. D.*, filed herewith, and the other evidence in support of this application is left herewith.

The address of the said *C. D.*, for service is (*here give address*).

Dated this day of , 18 .

(*Signature of C. D. or his solicitor.*)

*Affidavit, etc. to be left with application.

44.—*Application under Section 104 to annex Conditions or Covenants to Land about to be brought under The Land Titles Act. (Rule 39.)*

LAND TITLES ACT.

A. B., of etc., being about by himself (*or his nominee C. D.*) to be registered as owner of the land called or known as in the of under Imp. , in the County of York, comprised in the application of the said Act 38 & 39 *A. B.* for registration dated the day of , 18 , requests the Master of Titles to register as annexed to the said land the conditions a printed copy of which is left herewith. V. c. 87.

Dated this day of , 18 .

(*Signature of A. B.*)

Witness,

X. Y.

45.—*Application under Section 104 to annex Conditions or Covenants to Registered Land. (Rule 39.)*

LAND TITLES ACT.

A. B., the registered owner of the land entered on the register for Form 32 made as Parcel , and part of which is about to be transferred under Imp. to *C. D.* of etc., pursuant to the instrument of transfer left herewith, Act 38 & 39 hereby requests the Master of Titles to register, as annexed to the part of the land to be so transferred, the conditions (*or covenants*) a copy of which is left herewith. V. c. 87.

The said *C. D.* consents to this application.

Dated this day of , 18 .

(*Signatures of A. B. and C. D.*)

Witness,

X. Y.

46.—*Affidavits attesting Execution of Instrument where bar of Dower and Identifying Parties.*

(Rule 54.)

LAND TITLES ACT.

Form 37,
made under
Imp. Act 38
and 39 V.
c. 87.

I, *G. H.*, of *etc.*, a solicitor of the Supreme Court of Judicature (*or as the case may be*), make oath and say :

I am well acquainted with *A. B.* and *C. D.*, named in the within document, and saw them sign the said document, and the signatures purporting to be their respective signatures at the foot of the said document are in their handwriting.

The said *A. B.* is, as I verily believe, the owner of the land within mentioned, and the said *C. B.* is reputed to be, and is, as I verily believe, his wife.

The said *A. B.* and *C. B.* are each of the age of 21 years or over, are each of sound mind and signed the said document voluntary at in the county of _____, in the Province of Ontario (*or as the case may be*).

I am a subscribing witness to the said document.

Sworn, etc.

NOTE.—Where the affidavit is made by a clerk in a law office or other employee, this fact should be stated and the name of the employer given so as to facilitate identification. Where it is unlikely that the Master of Titles is acquainted with the witness the commissioner should add a certificate that the witness is well known to him and is of good repute.

LAND TITLES ACT.

I, *A. B.*, above (*or within*) named make oath and say :

That *C. B.* who executed the above (*or within*) instrument is my wife and that we are both of the age of 21 years or over, (*or as the case may be*).

Sworn, etc.

47.—*Affidavits attesting Execution of Transfer of Land where Transferor unmarried.*

(Rule 54.)

LAND TITLES ACT.

I, *G. H.* of *etc.*, solicitor of the Supreme Court of Judicature (*or as the case may be*), make oath and say :

I am well acquainted with *A. B.* named in the within document and saw him sign the said document, and the signature purporting to be his signature at the foot of the said document is in his handwriting.

The said *A. B.* is, as I verily believe, the owner of the land within mentioned

The said *A. B.* is of the age of 21 years or over, he is reputed to be,

and as I believe is, unmarried, he is of sound mind and signed the said document voluntarily at _____, in the county of _____ and Province of Ontario (or as the case may be).

I am a subscribing witness to the said document.

Sworn, etc.

LAND TITLES ACT.

I, *A. B.*, above (or within) named, make oath and say that I am an unmarried man and am of the age of 21 years or over.

Sworn, etc.

48.—*Additional Affidavit under Rule 50 where Instrument is executed under a Power of Attorney.*

LAND TITLES ACT.

I, *C. D.*, of etc., make oath and say :

That the power of attorney under which I executed the within (or above) instrument on behalf of *A. B.* is unrevoked and in full force.

Sworn, etc.

C. D.

49.—*Form of Power of Attorney to make Transfers.*

(Rule 50.)

LAND TITLES ACT.

I, *A. B.*, do appoint *C. D.* my attorney to transfer to *E. F.* absolutely Form in (or by way of mortgage, as the case may be), all my lands as entered and schedule 25 described in the register for the township of _____ in the office of _____ & 26 V. c. 65, Land Titles at _____ as Parcel _____, and my estate therein. (Imp. Act.)

Dated this _____ day of _____ 18 _____

Signature of A. B.

Witness,
X. Y.

No seal necessary.

(If such is the intention, add This power shall not be revoked by the death of the said *A. B.*, and the exercise of the same after his death shall be binding on his representatives).

NOTE: For affidavit that Power of Attorney in force, see Form 48.

50.—*Form of Revocation of Power of Attorney.*

LAND TITLES ACT.

I, *A. B.*, of _____, hereby revoke the power of attorney, given by me to *C. D.*, dated the _____ day of _____ 18 ____.

In witness whereof I have hereunto subscribed my name this _____ day of _____ 18 ____.

(*Signature of A. B.*)

Witness,

X. Y.

51.—*Form of a Reference to the Court.*

(*Rule 78.*)

In the High Court of Justice.

LAND TITLES ACT.

(*Date.*)

In the matter of the Application for Registration of *A. B.* (*or as the case may be.*)

The Master of Titles under section _____ of the Land Titles Act, hereby humbly refers the following matter to the Court, to wit: (*Here state briefly the difficulty which has arisen.*)

The parties interested, so far as the Master of Titles knows or has been informed, are: (*Here give the names.*)

L. S.

Signature of Master of Titles.

52.—*Form of Surveyor's Certificate of Correctness of Plan.*

(*Rules 58 and 59.*)

I hereby certify that this plan accurately shews the manner in which the land (*or part of the land*) entered in the office of Land Titles at *Toronto* as *Parcel 104* in the register for the *township of York*, being the *west half of lot 10* in the *4th concession of said township*, has been surveyed and subdivided by me, and that the said plan is prepared in accordance with the provisions of the Land Titles Act.

Dated _____ 18 ____.

A. B.,

Ontario Land Surveyor.

53.—*Affidavit of Value for Fixing Insurance Fees.*

(Section 130.)

LAND TITLES ACT.

I, *A. B.*, of the _____ in the County of _____ make oath and say :

1. That I am the registered owner of lot (*describing land*) registered in the Land Titles Office at _____ as Parcel _____.

2. That the said land is not worth more than _____ dollars.

Sworn, etc.

54.—*Form of Requisition to Accountant to receive money to credit of Assurance Fund.*

(Section 130.)

LAND TITLES ACT.

The Accountant of the Supreme Court will please place to the credit of the Assurance Fund under the above Act, the enclosed sum of \$ _____ paid in respect of the registration, under the above Act, of lot *4* in the 1st concession of the township of (*or as the case may be*), with reference to which an application is now pending before the Local Master of Titles, at Port Arthur. (*Where land has been registered vary accordingly and give number of parcel.*)

Dated at _____ 18 ____.

A. B.,

Applicant,

(*or Solicitor for Applicant.*)

55.—*Form of Notice to Sheriff that newly patented lands have become subject to the Land Titles Act.*

(Section 172.)

To the Sheriff of _____

I do hereby take notice that a Patent from the Crown of certain lands has been forwarded to me by the Crown Lands Department, in order that *A. B.* of etc., the patentee therein named, should be entered, under *The Land Titles Act*, as owner thereof, and that such entry having been made in pursuance of the said Act, the said *A. B.*, will, at any time after fourteen days from this date, be at liberty to transfer, or charge, the said land free from all executions in your hands affecting his lands, unless before the expiry of the said time I receive from you copies, certified under your hand, of any writs in your hands, affecting the lands of the said *A. B.*, in accordance with section 64 of *The Land Titles Act*.

Dated the _____ day of _____, 18 ____.

C. D.,

Local Master of Titles,

at (*name place*).

56.—*Form of Notice to the Treasurer of a Municipality of receipt of Patent for entry under Act.*

(Section 172.)

To the Treasurer of the Township of

Take notice that a Patent from the Crown for lot in the
Concession of , in the district of , has
been forwarded to me by the Crown Lands Department in order that
A. B., the patentee therein named, should be entered under *The Land
Titles Act* as owner thereof, and that such entry having been made, the
said *A. B.* will, at any time after fourteen days from this date, be at liberty
to transfer, or charge, the said lands free from all taxes, except those for
the current year, unless before that time I receive from you a statement
claiming that taxes for a previous year or years are owing upon the said
land with full particulars of such claim,

Dated the day of , 18 .

C. D.,

Local Master of Titles,
at (*name place*).

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SECTION IX.

PROPERTY IN WATERS AND STREAMS.

CHAPTER 139.

An Act respecting Ferries.

LICENSES OF FERRY, ss. 1, 2.

LIMITS OF FERRIES, s. 3.

FERRIES BETWEEN TWO MUNICIPALITIES :

Licenses to municipalities, ss. 4-6.

Conditions of license, s. 7.

Municipality may sub-let, s. 8.

By-laws by municipalities jointly licensed, s. 9.

PERSONS MAY KEEP BOATS AT FERRIES, s. 10.

PENALTIES FOR INTERFERENCE WITH LICENSED FERRYMAN, ss. 11-13.

BY-LAWS BY MUNICIPALITIES REGULATING FERRIES, s. 14.

EXCLUSIVE PRIVILEGES, s. 15.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Every grant or license of ferry shall be issued by the Lieutenant-Governor under the Great Seal. R. S. O. 1887, c. 117, s. 1. License to be issued under the Great Seal.

2. Except as herein otherwise provided, no ferry in Ontario shall hereafter be leased by the Crown, nor shall the lease thereof be renewed, or any license by the Crown to act as a ferryman thereat be granted; except by public competition, and after notice of the time and place at which tenders will be received for the lease or license for such ferry, inserted at least four times in the course of four weeks in the *Ontario Gazette*, and in one or more of the newspapers published in the county or district in which the ferry is situate, and to parties giving such security as the Lieutenant-Governor in Council may require; nor shall any such ferry be leased or the license thereof be granted for a longer term than seven years at any one time. R. S. O. 1887, c. 117, s. 2. Ferries to be leased by public competition and only for limited time.

3. In every case, except in the case of municipalities as hereinafter provided, where the limits to which the exclusive privilege of any ferry extends are not already defined, such exclusive privilege shall not be granted for a greater distance Limits of ferries.

than one mile and a half on each side of the point at which the ferry is usually kept, but nothing herein contained shall invalidate or infringe upon any existing grant or right of ferry. R. S. O. 1887, c. 117, s. 3.

License for ferry between two municipalities.

4. In all cases where a ferry is required over any stream or other water within Ontario, and the two shores of the stream or other water are in different municipalities, such municipalities not being in the same county, the Lieutenant-Governor in Council may grant a license to either of such municipalities exclusively, or to both conjointly, as may be most conducive to the public interest. R. S. O. 1887, c. 117, s. 4.

Municipalities to which licenses may be granted.

5. Where a ferry is required over any stream or other water within Ontario, and the two shores of the stream or other water are in different counties, the Lieutenant-Governor may, instead of granting the license to a minor municipality, grant the same to either of the counties or to both jointly, or to one of them jointly with a city or town, or in the manner provided by the preceding section, as he may consider most conducive to the public interest. R. S. O. 1887, c. 117, s. 5.

Extent of right conferred, etc.

6. The license shall confer a right on the municipality or municipalities to establish a ferry from shore to shore on such stream or other water, and with such limit and extent as may appear advisable to the Lieutenant Governor in Council, and be expressed in the license. R. S. O. 1887, c. 117, s. 6.

Condition of license as to steam, etc.

7. The license shall be upon condition that the craft to be used for the purpose of the ferry shall be propelled by steam, and be of such dimensions, and the engine thereof be of such power as the Lieutenant-Governor in Council may direct; and upon such further conditions as the Lieutenant-Governor in Council may think fit and express in the license. R. S. O. 1887, c. 117, s. 7.

Municipalities may sub-let ferries.

8. The council of the municipality to which such license is issued, may pass by-laws, not contravening the terms of the license, declaring their determination to sub-let the said ferry, and may sub-let the same for such price, and upon such terms, and to such parties, and on such conditions, and at such rates of ferriage to be paid, as the council may think fit. R. S. O. 1887, c. 117, s. 8.

By-laws by municipalities to which license granted jointly.

9. Where a license is granted to two municipalities jointly, no by-law of the council of one of such municipalities with respect to the ferry shall have any force until a by-law has been passed in similar terms, as nearly as may be, by the other council. R. S. O. 1887, c. 117, s. 9.

Parties may keep boats at ferry for their own use.

10. Any person may keep at any such ferry a boat, vessel, or other craft, for his own private use, or may use, for the accommodation of himself or of his employer, his own or his employer's boat, vessel or craft, to cross the river or stream on which the ferry is situate; but such privilege shall in no wise

be used to take, carry or convey any other persons or property for hire, gain, reward or profit, or hope thereof, or directly or indirectly to enable any of such other persons to evade the payment of tolls at the ferry. R. S. O. 1887, c. 117, s. 10.

11. If any person unlawfully interferes with the rights of a licensed ferryman, by taking, carrying, and conveying, at any such ferry, across the river or stream on which the same is situate, any person, cattle, carriage, or wares, in any boat, vessel, or other craft, for hire, gain, reward, profit, or hope thereof, or unlawfully does any other act or thing to lessen the tolls and profits of any lessee of the Crown of any such ferry, the offender, upon conviction thereof before a Justice of the Peace, shall forfeit and pay such sum of money not exceeding \$20, as the Justice may direct, which sum shall be paid to the party aggrieved, except where he has been examined in proof of the offence, in which case the money shall be applied and accounted for in the same manner as any penalty imposed for a breach of the peace. R. S. O. 1887, c. 117, s. 11.

Penalty for interfering with licensed ferryman's rights.

12. In case the sum forfeited is not paid immediately after conviction, the convicting Justice may commit the offender to the common gaol of the county, there to be imprisoned for a term not exceeding two months, unless the forfeiture, and the costs, are sooner paid. R. S. O. 1887, c. 117, s. 12.

Offender to be committed if penalty not paid.

13. On the trial of an offender against this Act, every license heretofore issued or issued under this Act, shall be *prima facie* evidence of title to the ferry. R. S. O. 1887, c. 117, s. 13.

License evidence of title to the ferry.

14.—(1) The council of every county, city and town separated from the county, for municipal purposes, may pass by-laws for licensing and regulating ferries between any two places in the municipality; and establishing the rates of ferriage to be taken thereon; but no such by-law shall have effect until assented to by the Lieutenant-Governor in Council, and the powers conferred by this section on county councils shall not extend to a ferry between any two places within the same township.

Municipal Councils may pass by-laws regulating ferries in certain places.

(2) Until the council passes a by-law regulating such ferries, and in the case of ferries not between two places in the same municipality, the Lieutenant-Governor, by Order in Council, may from time to time regulate such ferries respectively, and establish the rates to be taken thereon subject to the provisions of this Act. R. S. O. 1887, c. 117, s. 14; 55 V. c. 42, s. 495 (4).

15. A council may grant exclusive privileges in any ferry which may be vested in the corporation represented by such council, but this provision is not intended to apply to a ferry between a Province of the Dominion of Canada and any British or foreign country, or between two Provinces of the Dominion.

Granting exclusive privileges. Exception as to certain ferries.

55 V. c. 42, s. 287.

CHAPTER 140.

An Act respecting Mills and Dams.

TOLLS FOR GRINDING AND BOLTING RESTRICTED, s. 1.	MAINTENANCE OF DAMS, ETC., In the County of Huron, s. 8.
BAGS TO BE MARKED, s. 2.	On the River Moira, ss. 9-12.
CONSTRUCTION OF APRONS, SLIDES, WASTE-GATES, SLASH-BOARDS, BRACKETS, ss. 3-6.	On the River Otonabee, s. 13.
Penalty for not constructing, etc., s. 7.	PENALTIES SUSPENDED WHEN DAMS, ETC., INJURED BY FLOODS, s. 14.
	NO DAMAGES FOR OVERFLOW OF ADJACENT LANDS IN CERTAIN CASES, ss. 15, 16.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

GRINDING GRAIN.

No greater proportion to be taken for grinding and bolting grain than one twelfth.

1. No owner or occupier of a mill, nor any person employed by him, shall demand or take as toll a greater proportion of any grain brought to him to be ground and bolted than one-twelfth part thereof, for grinding and bolting the same, under a penalty of \$40 for every such offence; one moiety thereof to be paid to Her Majesty, for the public uses of the Province, and the other moiety to any person who sues for the same. R. S. O. 1887, c. 118, s. 1.

Bags must be marked.

2. No owner or occupier of a mill shall be bound to receive or be chargeable with the loss of any bag of grain or flour, unless the bag is marked with the initial letters of the Christian name and surname of the owner of the grain, or with some mark distinguishing the bag, which mark of distinction shall be previously communicated and made known to the owner or occupier of the mill, or his servant usually attending the same. R. S. O. 1887, c. 118, s. 2.

DAMS, APRONS AND SLIDES.

Owners or occupiers of mills to construct aprons to their dams.

3.—(1) Subject to any jurisdiction in this behalf of the Dominion of Canada and to any Acts of the Parliament of Canada in the exercise of such jurisdiction, in case a mill-dam is legally erected on any stream, down which lumber is usually brought, or

in which salmon or pickerel abound, the owner or occupier of the dam shall construct and maintain a good and sufficient apron thereto, not less than eighteen feet wide by an inclined plane of twenty-four feet eight inches to a perpendicular of six feet, and so in proportion to the height where the width of the stream will admit of it; and in case the stream or dam is less than fifteen feet wide, the whole dam shall be aproned in like manner with the same inclined plane; Provided, however, that the Lieutenant-Governor may by an Order in Council reduce the width of the apron and the specifications of the inclined plane by this section and other sections of this Act required. R. S. O. 1887, c. 118, s. 3, part; 59 V. c. 30, s. 1. Proviso.

2) Every owner or occupier who neglects to construct or maintain such apron, shall for every offence, forfeit and pay yearly the sum of \$100; one moiety thereof to Her Majesty for the public uses of the Province, and the other moiety to any person who may sue for the same. R. S. O. 1887, c. 118, s. 3, part. Penalty and its appropriation.

[As to Construction of Fishways wherever they are deemed necessary, see The Ontario Fisheries Act, Cap. 288, sec. 4.]

4. Every owner or occupier of a mill-dam at which an apron or slide is required to be constructed as aforesaid shall, if necessary, alter, or if not already built, shall construct such apron or slide so as to afford depth of water sufficient to admit of the passage over such apron or slide of such saw-logs, lumber and timber as are usually floated down the streams or rivers whereon such dams are erected; but an owner or occupier of any such dam may construct a waste-gate or put up brackets and slash-boards in, upon and across the apron, for the purposes of preventing unnecessary waste of water therefrom, and may keep the same closed when no person is ready and requires to pass or float any craft, lumber or saw-logs over such apron or slide. R. S. O. 1887, c. 118, s. 4. Apron or slide to admit passing of logs, etc.
Waste-gates, slash boards.

5. The owner or occupier of such dam shall not be bound to remove the brackets or slash-boards across the apron thereof until the raft, craft, lumber or saw-logs, required to be passed, are ready to pass and have for that purpose gained the main channel of the stream. R. S. O. 1887, c. 118, s. 5. Owners not obliged to remove brackets until rafts, etc., ready to pass.

6. No person shall be required to build such aprons or slides as are mentioned in sections 3 and 4, on small streams, unless required for the purpose of rafting or floating down lumber and saw-logs as aforesaid. R. S. O. 1887, c. 118, s. 6. When aprons and slides mentioned in ss. 3 and 4, not required in small streams.

7. Every owner or occupier of any dam mentioned in section 4 of this Act who if such dam is not already made and constructed, neglects or refuses to make and construct and keep Penalty on owner of dam refusing to comply with the requirements of sec. 4.

How enforced.

in repair an apron of the description therein mentioned shall pay a penalty of \$2 per day for every day of such neglect, and such penalty shall be recoverable before any two Justices of the Peace for the county in which the offence has been committed, on the oath of two credible witnesses, and if not paid, shall be levied by distress and sale of the goods and chattels of the offender, by a warrant under the hand and seal of the Justices, or one of them, and shall be paid to the treasurer of the municipal corporation having jurisdiction in the locality where the dam is erected, for the general uses of the municipality. R. S. O. 1887, c. 118, s. 7.

MILL DAMS IN SPECIFIED CASES.

In the County of Huron.

Dams and Weirs in the County of Huron.

8. Subject to any jurisdiction of the Dominion of Canada in this behalf, and to any Acts of the Parliament of Canada in the exercise of such jurisdiction, the owner or occupier of every dam or weir erected on any river or stream in any of the townships of Williams, McGillivray, Stephen, Hay, Stanley, Goderich, Colborne, Hullet, McKillop, Tuckersmith, Hibbert, Logan, Fullarton, Usborne, Biddulph, Blanchard, Downie, the Gore of Ellice, North Easthope, and South Easthope, or any other tracts of land which on the 29th day of March, 1845, constituted the then District of Huron, shall, if the same has not been already done, construct and maintain, and, if constructed, shall maintain and keep in repair, a good and sufficient apron to such dam or weir, at least twenty-eight feet wide, if the dam or weir is of greater width, and if not, then of the same width as the dam or weir, and at least eight feet in length for every foot rise of such dam or weir, under a penalty of \$1 for each day during which the requirements of this section are not complied with; and such penalty shall be recoverable before any two Justices of the Peace for the county in which the offence has been committed, on the oath of one credible witness; and if not paid, may be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand and seal of such Justices or either of them; one moiety of which penalty shall belong to Her Majesty, for the public uses of the Province, and the other moiety to the prosecutor. R. S. O. 1887, c. 118, s. 8.

On the River Moira.

On the river Moira.

9. Subject as aforesaid, the owner or occupier of any dam on the River Moira or its tributaries, in the county of Hastings, on which lumber is floated to market, shall construct and maintain, and if constructed, shall maintain and keep in repair a good and sufficient apron to such dam, at least thirty-two feet in width, if the dam is of that or of greater width, and if not,

then of the width of the dam, and at least five feet in length for every foot rise of such dam; and the height of the dam at the place where the apron is constructed, shall be at least two feet lower than the top of the said dam at any other place (unless it occupies the whole width thereof as aforesaid); but if the rise of the dam is less than four feet, the height of the dam at the place where the apron is constructed shall not exceed one-half its height at any other place. R. S. O. 1887, c. 118, s. 9.

10. Every such apron shall be constructed on the main channel of the stream, and its highest part shall be one foot below the level of the dam at the place where it joins the same, under a penalty of twenty-five cents for each day the requirement of this and the next preceding section are not complied with. R. S. O. 1887, c. 118, s. 10. Penalty for contravention.

11. The said penalty, on the complaint of any person engaged in the lumber trade upon the said river or any tributary thereof, may be recovered before any two Justices of the Peace for the county in which the offence has been committed, upon the oath of one credible witness other than the informer, one half of which penalty shall belong to Her Majesty, for the public uses of the Province, and the other moiety to the prosecutor; and if upon conviction such penalty be not forthwith paid, it shall, by warrant under the hand and seal of such Justices, or of one of them, be levied by distress and sale of the goods of the offender. R. S. O. 1887, c. 118, s. 11. How recovered and enforced.

12. Section 9 of this Act shall not oblige the owner or occupier of any dam on the River Moira to alter the apron thereof, if constructed before the 23rd day of March, 1848, until the renewal of such apron. R. S. O. 1887, c. 118, s. 12. Owner not obliged to alter the apron if constructed before 23rd March, 1848, until renewed.

On the River Otonabee.

13. No apron to any mill-dam on the River Otonabee shall be less than thirty-two feet wide by an inclined plane of five feet to a perpendicular of one foot, and so in proportion to the height of the dam; and side pieces of at least one foot in height shall be fixed on the outside of every such apron, to confine the water and prevent the timber from falling off at the sides. R. S. O. 1887, c. 118, s. 13. Special provisions with regard to the river Otonabee.

PENALTIES SUSPENDED WHEN DAMS INJURED BY FLOODS.

14. In case an apron is carried away, destroyed or damaged by flood or otherwise, the owner or occupier of the dam to which the same was attached shall not be liable to such penalty as aforesaid if the apron is repaired or reconstructed in conformity with this Act, as soon as the state of the stream safely permits. R. S. O. 1887, c. 118, s. 14. If aprons injured by floods, etc., penalties suspended for a time.

NO DAMAGES TO BE GIVEN FOR DAMS OVERFLOWING
ADJACENT LANDS IN CERTAIN CASES.

Where allowance for overflow made to patentee.

15. In case, in an action brought against the proprietor or occupier of a dam, for the overflowing of or injury to land, caused by the erection or continuation of the dam, it appears that the overflowing or other injury was caused by the erection or continuation of a dam which was built before the purchase of the land by the grantee of the Crown and before the grant thereof to him, and that the purchaser obtained a reduction in the price of the land, or was otherwise indemnified in consequence of its being so overflowed or otherwise injured, then on the trial of the action such facts may be taken into consideration, and, if it appears just and equitable, a verdict may in consequence thereof, be found for the defendant. R. S. O. 1887, c. 118, s. 15; 60 V. c. 15, Sched. A (26).

Defendant may plead not guilty, etc.

16. In such action the defendant may plead not guilty by statute, and may thereupon avail himself of the matters of defence herein given. R. S. O. 1887, c. 118, s. 16.

CHAPTER 141.

An Act respecting Water Privileges.

OCCUPIED MILL PRIVILEGE, WATER POWER AND MILL LAWFULLY EXISTING, DEFINED, s. 1.	OBTAIN POWERS UNDER THIS ACT, ss., 4-10.
RIGHT OF ENTRY UPON LANDS TO IMPROVE WATER OR MILL PRIVILEGES, s. 2.	REGISTRATION OF JUDGE'S ORDER, s. 11.
CASE OF MILL PRIVILEGE NOT IN ACTUAL USE, s. 3.	POWERS OF JUDGE, ss. 12-14.
APPLICATION TO COUNTY JUDGE TO	APPEALS FROM JUDGE'S ORDER, ss. 15-18.
	MISCELLANEOUS, ss. 19-22.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. "An occupied mill privilege" or "water power" or "mill lawfully existing" within the meaning of this Act, shall mean a mill privilege, water power, or mill which has been or is in use for mechanical, manufacturing, milling or hydraulic purposes, or for the use of which for any of such purposes the necessary works are *bona fide* in course of construction. R. S. O. 1887, c. 119, s. 2.

Meaning of "occupied mill privilege," etc.

2.—(1) Any person desiring to use or improve any water privilege, of which, or a part of which he is at such time the owner or legal occupant, for any mechanical, manufacturing, milling or hydraulic purposes, by erecting a dam and creating a pond of water, increasing the head of water in any existing pond, or extending the area thereof, diverting the waters of any stream, pond or lake into any other channel or channels, constructing any raceway, or other erection or work which he may require in connection with the improvement and use of the said privilege, or by altering, renewing, extending, improving, repairing or maintaining any such dam, raceway, erection, or work, or any part thereof, shall have the right to enter upon any lands which he may deem necessary to be examined, and to make an examination and survey thereof, doing no unnecessary damage in performing such work, and paying the actual damage done, if any.

Right of persons to enter and acquire lands for improving water privileges.

(2) If, upon an application to the County Judge as hereinafter provided, such person obtains authority, he shall be

at liberty to take, acquire, hold and use such portions of the said lands so examined as he may deem expedient for the completion, improvement or maintenance of the water privilege and works in connection with the same. R. S. O. 1887, c. 119, s. 1.

3.—(1) The owners of any privilege, water power or mill having been, but not being, in actual use for such purposes, at the time the County Judge, under this Act, and claiming the same as an occupied mill privilege or water power, or mill lawfully existing, shall upon the application of any person who desires to obtain and exercise the powers mentioned in this Act, produce before the County Judge, satisfactory evidence that the same is held *bona fide* as such privilege, water power or mill, and is intended to be used again for mechanical, manufacturing, milling or hydraulic purposes; but in the event of such evidence not being produced or not being satisfactory, such alleged privilege, water power or mill shall not be deemed to be an occupied mill privilege, water power, or mill lawfully existing within the meaning of this Act.

(2) The County Judge in the event of finding that the same have been, but not being, in actual use for such purposes, may fix and limit a time within which the necessary works or the actual use of the privilege, water power or mill, for the purposes for which the same are claimed shall be constructed, and the privilege, water power or mill actually used. R. S. O. 1887, c. 119, s. 3.

Proceeding-
for obtaining
the power-
given by this
Act.

4. Any person who desires to obtain or exercise the powers hereinbefore mentioned, or any of them, shall proceed as follows:—

Firstly.—He shall cause surveys and levels to be taken and made of the lands sought to be taken or acquired, held, used or otherwise affected, together with a map or plan thereof:

Secondly.—He shall cause to be prepared a statement giving,

1. A general description of the said lands;
2. The names of the owners and occupiers thereof, so far as they can be ascertained, and
3. Everything necessary for the right understanding of the map or plan, including a Registrar's certified abstract of the titles to all the lands, to be affected by the application:

Thirdly.—He shall cause to be filed in the office of the Clerk of the County Court of the county wherein the lands or any part thereof are situate the said map or plan and the said statement, and shall then apply to the Judge of the County Court for an order to empower him to exercise the said powers or such of them as he may desire. R. S. O. 1887, c. 119, s. 4.

5. In addition to any other notice which the Judge directs to be given upon an application under this Act, public notice of the application stating the time when the same is to be heard, shall be inserted in a newspaper published in the county or one of the counties where the proposed works are to be erected, or any of the lands affected are situate, for such period as the Judge may direct. R. S. O. 1887, c. 119, s. 5. Public notice to be inserted in newspaper.

6. The practice upon and in reference to the application shall be the same as if the application were for an order for the partition of real estate under the provisions of any of the Acts in reference to such partition. R. S. O. 1887, c. 119, s. 6. Practice to be the same as in partition of real estate. See R. S. O. 1887, c. 123.

7. If the Judge is of opinion that the allowance of the application will conduce to the public good and is proper and just under all the circumstances of the case, he shall make an order describing the lands affected thereby and empowering such person to exercise the said powers or such of them as he may deem expedient, for such time and on such terms and conditions as he may determine. R. S. O. 1887, c. 119, s. 7. If the application is proper and just, the Judge shall make an order describing the lands affected and empowering such person to exercise the said powers or such of them as he may deem expedient, for such time and on such terms and conditions as he may determine.

8. In and by the order the Judge shall state the height to which the dam may be built, and he shall assess the sum to be paid as the value of the land to be taken or used, and of the damages, if any, which ought to be paid as compensation by such person for any injury thereby done, and shall make such order as to costs as to him seems just, and such costs shall be the same as in ordinary proceedings in the County Court, and shall be taxed by the clerk thereof. R. S. O. 1887, c. 119, s. 8. Nature of the Judge's order.

9. The money, or sum assessed, together with the costs awarded, if any, shall be paid to the person entitled thereto according to the award, or paid into the High Court as the Judge may direct, before the powers aforesaid, or any of them are exercised, and within sixty days after the said award is made; and if the same are not so paid within the said time, the order may be proceeded upon as if it had been made in any action or cause, in the County Court, or in the High Court; or the order may, at the option of the parties entitled to receive the sums awarded, or of any of them, be set aside and vacated. R. S. O. 1887, c. 119, s. 9. Payment of award. See R. S. O. 1887, c. 119, s. 10.

10. Upon the payment of the sum awarded and costs, if any, as aforesaid, the person obtaining the order shall be entitled to a conveyance of the lands or the rights (as the case may be,) mentioned in the order; and in case of dispute, the conveyance shall be settled by the Judge, and such person shall be further entitled to have and exercise such of the privileges mentioned in section 2 of this Act as he is authorized in and by the order to exercise. R. S. O. 1887, c. 119, s. 10. Conveyance of the lands or rights mentioned in the order.

Registration
of Judge's
order.

11. The order of the Judge may, upon the mere production thereof, be entered and registered in the registry office of the registry division in which the lands or any of them are situate; and shall operate and may be pleaded as an effectual bar to any action, or proceeding brought in any Court in this Province in respect of the said lands or any part thereof. R. S. O. 1887, c. 119, s. 11.

Attendance of
witnesses.

12. The Judge shall have the same and like powers as to compelling the attendance and examination of witnesses, the production of documents and otherwise as are possessed by him, or by any County Court, in any cause, action, matter or other proceeding carried on or pending in the County Court. R. S. O. 1887, c. 119, s. 12.

Judge's fees.

13. The Judge shall be entitled for his services to have and receive to his own use the like fees as are allowed to professional arbitrators. R. S. O. 1887, c. 119, s. 13.

The case of
two claiming
the powers
under this
Act.

14. In case two or more persons claim to exercise the powers conferred by this Act, in respect of the same water privilege or any part thereof, the County Judge may impose such terms as he may deem just, and limit a time within which the person whose application he allows shall construct the necessary works, and actually use such water privilege. R. S. O. 1887, c. 119, s. 14.

Appeal from
County Judge
to Divisional
Court.

15. Subject to the provisions hereinafter contained, there shall be an appeal from the final order or judgment of the County Judge on any application under this Act, to a Divisional Court of the High Court of Justice; the decision of the County Judge upon a question of fact or other question shall be open to revision on such appeal. 58 V. c. 13, s. 49 (1).

Leave to ap-
peal and
practice.

16. The appeal shall not be permitted without leave of one of the Judges of the High Court, and the application for leave shall be made within ten days from the day on which the order or judgment appealed from is made or rendered; and the Judge to whom the application is made shall determine the time within which the appeal, if permitted, shall be set down to be heard, the security to be given by the appellants and the persons upon whom notice of the appeal shall be served and all such other matters as he may deem necessary for the most speedy and least expensive determination of the matter of the appeal. R. S. O. 1887, c. 119, s. 16; 58 V. c. 13, s. 49 (2).

Non-compli-
ance with
conditions of
appeal an
abandonment.

17. If the appeal is not set down to be heard within the time limited for that purpose, or if the other conditions imposed are not complied with, the appeal shall be deemed to have been abandoned. R. S. O. 1887, c. 119, s. 17.

18. The costs of the appeal shall be in the discretion of the Court to which the appeal is had; and the practice and proceedings upon the appeal shall, except so far as is herein or may be by the Judge to whom the application for leave is made, otherwise provided, be similar to the practice and proceedings upon appeals from County Courts. R. S. O. 1887, c. 119, s. 18; 58 V. c. 13, s. 49 (3).

Costs and
practice on
appeal.

19. No pond created or partly created under the authority of this Act shall exceed in extent twenty acres, unless the Judge of the County Court having jurisdiction, as hereinafter mentioned, by an order to be made by him orders and directs otherwise; and in and by the order the Judge shall fix the extent of the pond. R. S. O. 1887, c. 119, s. 19.

Ponds created
not to exceed
twenty acres,
unless on order
of County
Judge.

20. No occupied mill privilege or water power shall be in any manner interfered with or encroached upon under the authority of this Act without the consent of the owner thereof. R. S. O. 1887, c. 119, s. 20.

Occupied mill
privilege not
to be inter-
fered with.

21. No such dam may be erected, or other powers exercised to the injury of any mill lawfully existing, either above or below it on the stream, nor shall the privilege of the owner be affected by the erection thereof. R. S. O. 1887, c. 119, s. 21.

Existing mill
not to be
injured.

22. This Act shall not authorize interference with the navigation of any stream or river and shall not authorize any stream of water to be so obstructed by the construction of such works as aforesaid as to prevent timber or logs floating down the stream during high water. R. S. O. 1887, c. 119, s. 22.

Obstructing
navigation
and the float-
ing of timber.

CHAPTER 142.

An Act for protecting the Public interest in Rivers
Streams and Creeks.

RIGHT TO FLOAT TIMBER DOWN STREAMS, ss. 1, 11, 12.	TOLLS FOR USE OF IMPROVEMENTS, s. 11.
INJURING DAMS, s. 2.	Judge or Magistrate to fix tolls, s. 13.
CONDITIONS AS TO FLOATING TIMBER DOWN CERTAIN RIVERS, s. 3.	Powers of Judge, s. 14.
PENALTIES :	Appeal, ss. 15-17.
Obstructing rivers, s. 4.	Lien for tolls, s. 19.
How recovered, s. 8.	APPLICATION OF ACT, ss. 5-7, 18, 20.
How appropriated, s. 9.	RIGHT TO GO ON RIVER BANKS, s. 21.
ACT NOT TO APPLY IN CERTAIN CASES, ss. 5-7.	PERSON ENTITLED TO TOLLS MAY MAKE RULES REGULATING TRANSMIS- SION OF TIMBER, s. 22.
ASSESSED DAMAGES FOR INJURY TO PRIVATE PROPERTY — HOW AP- PLIED, s. 10.	RIGHT TO INJUNCTION RESTRICTED, ss. 23, 24.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

All persons
entitled to
use rivers for
floating down
timber and
saw-logs.

1. All persons shall, subject to the provisions in this Act contained, have, and are hereby declared always to have had, during the spring, summer and autumn freshets, the right to, and may float and transmit saw-logs and all other timber of every kind, and all rafts and crafts, down all rivers, creeks and streams; and no person shall by felling trees or placing any other obstruction in or across any such river, creek or stream, prevent the passage thereof; and in case it may be necessary to remove any obstruction from such river, creek or stream, or construct any apron, dam, slide, gate-lock, boom, or other work therein or thereon, necessary to facilitate the floating and transmitting such saw-logs and other timber, rafts or crafts, down the same, then it shall be lawful for the person requiring so to float and transmit such saw-logs and other timber, rafts and crafts, and it is hereby declared always to have been lawful to remove such obstruction, and to construct such apron, dam, slide, gate-lock, boom or other work necessary for the purposes aforesaid, doing no unnecessary damage to the said river, creek or stream, or to the banks thereof. R. S. O. 1887, c. 120, s. 1.

2. In case there is a convenient apron, slide, gate, lock, or opening in any such dam or other structure made for the passage of saw logs and other timber, rafts and crafts authorized to be floated down such stream as aforesaid, no person using any such stream in manner and for the purposes aforesaid, shall alter, injure or destroy any such dam or other useful erection in or upon the bed of or across the stream, or do any unnecessary damage thereto or on the banks thereof. R. S. O. 1887, c. 120, s. 2.

Persons using streams not to injure dams, etc.

3. Except in the case of round or squared timber, or of trees, masts, staves, deals, boards or other sawed or manufactured lumber or saw-logs, prepared for transportation to a market, every person and every employer of such person, who cuts and fells any trees into the Grand River, the River Thames, River Nith, River Speed, Otter Creek, the River Credit, the River Otonabee from Sturgeon Lake to Rice Lake, the River Scugog, the River Trent from Rice Lake to the Bay of Quinte, Crow River, the Rivers Gananoque, Rideau, Petite Nation, Tay, Mississippi, Bonnechere, Madawaska and Goodwood in Ontario, or upon such parts of the banks thereof as are usually overflowed in the autumn or spring of the year by the rising of the water of the said rivers or creek, and who does not lop off the branches of such trees and cut up the trunks thereof into lengths of not more than eighteen feet, before they are allowed to be floated or cast into the said rivers or streams shall for every such offence forfeit and pay a penalty not exceeding \$10. R. S. O. 1887, c. 120, s. 3.

Conditions on which timber may be cut on the banks of certain rivers and floated thereon.

4. Subject to any jurisdiction of the Dominion of Canada in this behalf and to any Acts passed in the exercise of such jurisdiction—in case a person throws, or in case an owner or occupier of a mill suffers or permits to be thrown, into any river, rivulet or water-course, excepting those hereinafter mentioned, slabs, bark, waste stuff or other refuse of any saw-mill (except saw-dust), or stumps, roots, shrubs, tan-bark or waste wood, or leached ashes; or in case a person fells, or causes to be felled, in or across such river, rivulet or water-course, timber or growing or standing trees, and allows the same to remain in or across such river, rivulet or water-course, he shall incur a penalty not exceeding \$20 and not less than twenty cents for each day during which the obstruction remains in, over, or across such river, rivulet or water-course, over and above all damages arising therefrom. R. S. O. 1887, c. 120, s. 4.

Penalty on persons obstructing rivers and rivulets.

5. This Act shall not apply to a dam, weir or bridge erected in or over such river, rivulet or water-course, or to any thing done *bona fide* in or for erecting the same, or to any tree cut down or felled across such river, rivulet or water-course, for the purpose of being used as a bridge from one side thereof to the other; provided such tree does not impede the flow of water or the passing of rafts. R. S. O. 1887, c. 120, s. 5.

Act not to extend to dams, weirs or trees used as bridge.

Exception as
to certain
rivers.

6. Section 4 of this Act shall not extend to the River St. Lawrence, nor to the River Ottawa, nor to any river, or rivulet wherein salmon, pickerel, black bass or perch, do not abound. R. S. O. 1887, c. 120, s. 6; 57 V. c. 36, s. 1.

As to obstruc-
tions not wil-
ful.

7. No such obstruction happening without the wilful default of any party, or in the *bona fide* exercise of his rights, shall subject him to any fine or forfeiture unless upon default to remove the obstruction after notice and reasonable time afforded for that purpose. R. S. O. 1887, c. 120, s. 7.

How fines to
be recovered.

8. All fines, penalties, forfeitures and damages under this Act, when not together exceeding \$20, may respectively, upon the oath of one credible witness, be recovered with costs, in a summary way in the manner provided by *The Ontario Summary Convictions Act*, before any one or more of the Justices of the Peace for the county in which the offence has been committed, and unless the conviction is appealed from, if the fine or penalty and damages (as the case may be), together with the costs, are not paid at the time stated in the conviction, the convicting Justice or Justices, or one of them, when more than one, shall issue his or their warrant of distress to levy the same out of the goods and chattels of the offender; and in case there are not sufficient goods and chattels found to satisfy the same, and in case the offender does not otherwise satisfy the amount within three days after conviction, then such Justice or Justices (as the case may be) shall by warrant under hand and seal commit the offender to the common gaol of the county in which he has been convicted, for the term of ten days in case the conviction is under section 3 of this Act, or thirty days in case the conviction is under section 4 of this Act, unless the fine, penalty or forfeiture and damages (as the case may be), and costs are sooner paid. R. S. O. 1887, c. 120, s. 8.

Rev. Stat.
c. 90.

Appropriation
of penalties.

9. Of pecuniary penalties levied under this Act, one-third shall go to the informer, and the other two-thirds shall be paid to the treasurer of the municipality in which the offence was committed, and shall be expended in improving the public highways therein: where there is no municipal organization the said two-thirds shall be paid over to the Treasurer of the Province, or where there is a Stipendiary Magistrate shall be paid to such Stipendiary Magistrate and by him paid over to the Treasurer of the Province. R. S. O. 1887, c. 120, s. 9; 60 V. c. 3, s. 3, *see* 60 V. c. 15, Sched. A (11).

Assessed dam-
ages how to
be applied.

10. In cases of damages to private property arising out of a violation of this Act, such damages may, at the request of the party aggrieved, be assessed by the convicting Justice or Justices, and included in the conviction, when such damages, together with the fine or penalty imposed, do not together exceed \$20; and in case damages are assessed the same shall be paid to the party aggrieved, except in cases where he has

been examined in proof of the offence, in which case the same shall be applied to the improvement of the public highways in the municipality as above provided; or where there is no municipal organization shall be paid to the Treasurer of the Province, or where there is a Stipendiary Magistrate to such Stipendiary Magistrate to be by him paid over to the Treasurer of the Province. R. S. O. 1887, c. 120, s. 10.

11. In case any person shall construct in or upon such river, creek or stream, any apron, dam, slide, gate, lock, boom or other work necessary to facilitate the floating or transmission of saw-logs or other timber, rafts or crafts down such river, creek or stream, which was not navigable or floatable before the improvements were made, or shall blast rocks or remove shoals or other impediments, or otherwise improve the floatability of the river, creek or stream, such person shall not have the exclusive right to the use of the river, creek, or stream, or to the constructions and improvements; but all persons shall have during the spring, summer and autumn freshets, the right to float and transmit saw-logs and other timber, rafts and crafts, down such rivers, creeks or streams, and through and over the constructions and improvements, doing no unnecessary damage to the constructions and improvements, or to the banks of the said rivers, creeks or streams, subject to the payment to the person who has made the constructions and improvements of reasonable tolls. R. S. O. 1887, c. 120, s. 11.

12. Sections 1 and 11 of this Act and all the rights therein given, and all the provisions therein made and contained, shall extend and apply to all rivers, creeks and streams mentioned in section 1 of this Act, and to all constructions and improvements made therein or thereon, whether the bed of the river, creek or stream, or the land through which the same runs, has been granted by the Crown or not, and if granted by the Crown shall be binding upon the grantees, their heirs, executors, administrators and assigns. R. S. O. 1887, c. 120, s. 12.

13. The Judge of the County Court of the county or the Judge or Stipendiary Magistrate of the district, as the case may be, in which the constructions and improvements are situated shall, upon application of the owner thereof, or of any person who may desire to use the same, fix the amounts which any person entitled to tolls under this Act shall be at liberty to charge, and may from time to time vary such amounts, except where the tolls are fixed by the charter of incorporation of the Government of Canada, or by any Act of the Parliament of Canada, or of the Legislature of this Province; and the Judge or Stipendiary Magistrate in fixing the tolls shall have regard to and take into consideration the original cost of the construction and improvements, the amount required to maintain the same and to cover interest upon the original cost, as well as such other matters as under all the circumstances may seem just and equitable. R. S. O. 1887, c. 120, s. 13; 57 V. c. 36, s. 2.

Right to use rivers in which improvements have been made for the purpose of floating down timber.

Secs. 1 and 11 to apply whether land patented or not.

Judge of County or District Court or stipendiary magistrate may fix tolls.

Compelling attendance of witnesses.

14. The Judge or Stipendiary Magistrate shall have the same and like powers as to compelling the attendance and examination of witnesses, the production of documents and otherwise, as are possessed by him, or by a County Court, in any cause, action, matter, or other proceeding, carried on or pending in a County Court. R. S. O. 1887, c. 120, s. 14.

Appeal to Divisional Court.

15. In case a party interested is dissatisfied with the order or judgment of the Judge or Stipendiary Magistrate, he may within fifteen days from the date thereof appeal from the order or judgment to a Divisional Court of the High Court; and a Judge of the said Court shall determine the time within which the appeal shall be set down to be heard, the security (if any) to be given by the appellant, and the persons upon whom notice of the appeal shall be served, the manner of service, and all such other matters as he may deem necessary for the most speedy and least expensive determination of the matter of the appeal. 58 V. c. 13, s. 51 (1).

When appeal to be deemed abandoned.

16. If the appeal is not set down to be heard within the time limited for that purpose, or if the other conditions imposed are not complied with, the appeal shall be deemed to have been abandoned. R. S. O. 1887, c. 120, s. 16.

Costs of appeal and practice and procedure.

17. The costs of the appeal shall be in the discretion of the Court to which the appeal is had; and the practice and proceedings upon the appeal shall, except so far as may be by a Judge of the High Court as aforesaid otherwise provided, be similar to the practice and proceedings upon appeals from County Courts. R. S. O. 1887, c. 120, s. 17; 58 V. c. 13, s. 51 (2).

Provisions of Act to apply to all constructions now or hereafter made.

18. The foregoing provisions of this Act shall apply to all such constructions and improvements as may hitherto have been made, as well as to such as may be in course of construction, or shall hereafter be constructed. R. S. O. 1887, c. 120, s. 18.

Persons making improvements to have lien for tolls.

19. Every person entitled to tolls under this Act shall have a lien upon the saw-logs or other timber passing through or over such constructions or improvements for the amount of the tolls, such lien to rank next after the lien (if any) which the Crown has for dues in respect to such logs or timber, and if the tolls are not paid, any Justice of the Peace having jurisdiction within or adjoining the locality in which the constructions or improvements are, shall, upon the oath of the owner of the constructions or improvements, or upon the oath of his agent, that the just tolls have not been paid, issue a warrant for the seizure of such logs or timber, or so much thereof as will be sufficient to satisfy the tolls, which warrant shall be directed to any constable, or any person sworn in as a special constable for that purpose, at the discretion of the magistrate, and shall authorize the person to whom it is directed, if the tolls

are not paid within fourteen days from the date thereof, to sell subject to the lien of the Crown (if any), for dues, the said logs or timber, and out of the proceeds to pay such tolls, together with the cost of the warrant and sale, rendering the surplus on demand to the owner: Provido Provided always, that the authority to issue such warrant by such Justice of the Peace shall not exist after the expiration of one month from the time of the passage of the logs or timber through or over any of such constructions or improvements. R. S. O. 1887, c. 120, s. 19.

20. Nothing in this Act contained shall be construed as interfering with the powers or rights of any company formed under *The Timber Slide Companies' Act*, or with mill-dams, or the right to erect and maintain mill-dams on streams; and *The Act respecting Mills and Dams* and any other law conferring rights in mill-dams shall remain the same as if this Act Rights of companies formed under Rev. Stat. c. 194, not affected. Rev. Stat. c. 140. had not been passed. R. S. O. 1887, c. 120, s. 20.

21. All persons driving saw-logs or other timber, rafts or crafts, down any such river, creek or stream shall have the right to go along the banks of such river, creek or stream, and to assist the passage of the timber over the same by all means usual amongst lumbermen, doing no unnecessary damage to the banks of the river, creek or stream. All persons driving logs, etc., to have the right to go on river banks. R. S. O. 1887, c. 120, s. 21.

22. Every person entitled to tolls under this Act may make rules and regulations for the purpose of regulating the safe and orderly transmission of saw-logs, timber, rafts and crafts over or through the constructions or improvements aforesaid; but no such rules or regulations shall have any force or effect until approved of by the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may revoke and cancel such rules and regulations so made and approved, and from time to time approve of new rules and regulations which the person so entitled to tolls as aforesaid, shall have the power to make. Person entitled to tolls may make rules regulating transmission of timber. R. S. O. 1887, c. 120, s. 22.

23.—(1) Where in any action or other proceeding, any person shall claim, and but for this section would be entitled to, an injunction against the owner or occupier of any saw mill situate on or near the Ottawa River or any of its tributaries, for any injury or damage, direct or consequential, sustained by such person, or for any interference directly or indirectly with any rights of such person as riparian proprietor or otherwise, by reason or in consequence of the throwing or depositing of any sawdust or other mill refuse into the said river or its tributaries from the mill, or from such mill together with other mills, the Court or Judge may refuse to grant an injunction in the action or other proceeding, in case it is proved to the satisfaction of the Court or Judge by the person against whom the injunction is claimed that having regard to all the Right to injunction against owners of mills on the Ottawa waters restricted.

circumstances, it is on the whole, proper and expedient not to grant the same, and for that purpose shall take into consideration the importance of the lumber trade to the locality wherein the injury, damage or interference takes place, and the benefit and advantage, direct and consequential, which such trade confers on the locality and on the inhabitants thereof, and shall weigh the same against the private injury, damage or interference complained of ;

(a) Or the Court or Judge may grant an injunction to take effect after such lapse of time or upon such terms and conditions or subject to such limitations or restrictions as to the Court or Judge may seem proper ;

(b) Or may in lieu of granting an injunction direct the person against whom the injunction is claimed to take such measures or perform such acts to prevent, avoid, lessen or diminish the injury, damage or interference complained of, as to the Court or Judge may seem proper ;

Provided always that in such action or other proceeding the person claiming the injunction shall nevertheless be entitled to damages against the owner or occupier of the saw mill for any such injury, damage or interference.

(2) In cases where damage from the same cause continues the party may apply from time to time, in the same action, for the assessment of subsequent damages, or any other relief to which by subsequent events he may from time to time become entitled. R. S. O. 1887, c. 120, s. 23.

Application of
preceding
section.

24. The preceding section of this Act shall apply whether the injury, damage or interference is a continuing one or not, and whether the person claiming any such injunction is plaintiff in the said action or other proceeding, or is a defendant therein proceeding by way of counter-claim ; but the said section shall not apply where in the opinion of the Court or Judge the injury, damage or interference complained of is of such a nature that the same cannot be adequately compensated for by the awarding of damages. R. S. O. 1887, c. 120, s. 24.

CHAPTER 143

An Act respecting the Driving of Saw Logs and other Timber on Lakes, Rivers, Creeks and Streams.

SHORT TITLE, s. 1.	DAMAGES WHEN LOGS WRONGFULLY
INTERPRETATION, s. 2.	DETAINED OR SECURITY REFUSED,
WATER NOT TO BE OBSTRUCTED BY	s. 13.
FLOATING LOGS, ss. 3-5.	LIEN GIVEN BY SECS. 5, 8 AND 11 TO BE
PROVISION WHERE LOGS OF DIFFERENT	SUBJECT TO TOLLS OR DUES, s. 14.
OWNERS ARE MIXED :	RIGHTS OF CROWN NOT AFFECTED,
Owners whose logs are intermixed	s. 15.
to share cost of driving, ss. 6-8.	DISPUTES TO BE SETTLED BY ARBI-
Lien on logs, s. 8.	TRATION, ss. 16-26.
SEPARATION OF LOGS, ss. 9-11.	LIMITATION OF CLAIMS, s. 27.
FORM OF SECURITY FOR PROPORTION	EXEMPTION OF PARTS OF PROVINCE
OF EXPENSES UNDER SECS. 5, 8	FROM OPERATION OF ACT, ss. 28,
and 11, s. 12.	29.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited and known as “*The Saw Logs Short title. Driving Act.*” R. S. O. 1887, c. 121, s. 1.

2. Where the words following occur in this Act, they shall Interpretation. be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

1. “Logs” shall include saw logs, timber, posts, ties, cord-wood, and other things being parts of trees.

2. “Water” shall mean and include lakes, ponds, rivers, creeks and streams in this Province. R. S. O. 1887, c. 121, s. 2.

3. Any person putting or causing to be put, into any water, logs, for the purpose of floating the same in, upon or down such water, shall make adequate provisions and put on a sufficient force of men to break, and shall make all reasonable endeavours to break jams of such logs and clear the same from the banks and shores of such water with reasonable despatch, and run and drive the same so as not to unnecessarily delay or hinder the removal, floating, running or driving of other logs, or unnecessarily obstruct the floating or navigation of such water. R. S. O. 1887, c. 121, s. 3.

Persons float-
ing logs in
river, etc., not
to obstruct
floating or
navigation.

In case of neglect person obstructed may clear river, etc.

4. In case of the neglect of any person to comply with the provisions of the preceding section, it shall be lawful for any other person desiring to float, run or drive logs in, upon or down such water, and whose logs would be thereby obstructed, to cause such jams to be broken and such logs to be cleared from the banks and shores of such water, and to be floated, run and driven, in, upon and down such water. R. S. O. 1887, c. 121, s. 4.

Person clearing obstruction to use due care.

5.—(1) The person causing such jams to be broken, or such logs to be cleared, floated, run or driven, pursuant to the last preceding section, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores, and shall have a lien upon the logs in the jam or so cleared, floated, run or driven for the reasonable charges and expenses of breaking the jams and the clearing, floating, running, driving, booming and keeping possession of such logs, and may take and keep possession of such logs, or so much thereof as may be reasonably necessary to satisfy the amount of such charges and expenses pending the decision by arbitration as hereinafter provided for.

(2) The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place.

(3) The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts, and if satisfactory security be given for the amount of such charges and expenses, possession of the logs shall be given up. R. S. O. 1887, c. 121, s. 5.

Provision when logs of several owners cannot conveniently be separated.

6. When logs of any person upon or in any water or the banks or shores of such water, are so intermixed with logs of another person or persons, that the same cannot be conveniently separated for the purpose of being floated in, upon or down such water, then the several persons owning or controlling the intermixed logs, shall respectively make adequate provisions, and put on a fair proportion of the men required to break jams of such intermixed logs, and to clear the same from the banks and shores of such water with reasonable despatch, and to float, run and drive the same in, upon and down such water, and the costs and expenses thereof shall be borne by the parties in such proportions as they may agree upon, and in default of agreement as may be determined by arbitration as hereinafter provided for. R. S. O. 1887, c. 121, s. 6.

Provision when owner of any portion of logs is in default.

7. In case of neglect of any person to comply with the provisions of the last preceding section, it shall be lawful for any other person whose logs are intermixed, to put on a sufficient number of men to supply the deficiency and break jams of such intermixed logs, and to clear the same from

the banks and shores of such water, and to float, run and drive all such intermixed logs in, upon and down such water.

R. S. O. 1887, c. 121, s. 7.

8.—(1) The person supplying such deficiency and causing such jams to be broken, or such intermixed logs to be cleared, floated, run or driven, pursuant to the last preceding section, shall do the same with reasonable economy and despatch, and shall take reasonable care not to leave logs on the banks or shores, and shall have a lien upon the logs owned or controlled by the person guilty of such neglect, for a fair proportion of the charges and expenses of breaking the jams, and the clearing, floating, running, driving, booming and keeping possession of such intermixed logs; and may take and keep possession of such logs, or so much thereof, as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending the decision by arbitration, as hereinafter provided for. Lien on logs.

(2) The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place.

(3) The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts, and if satisfactory security be given for the amount of such proportion of charges and expenses, possession of the logs shall be given up. R. S. O. 1887, c. 121, s. 8.

9. When logs of any person, upon or in any water, or the banks or shores of such water, are intermixed with logs of another person, then any of the persons whose logs are intermixed, may at any time during the drive, require his logs to be separated from the other logs at some suitable and convenient place, and after such separation he shall secure the same at his own cost and expense, in such manner as to allow free passage for such other logs; Provided that when any logs so intermixed reach their place of original destination, if known, the same shall be separated from the other logs, and after such separation the owner shall secure the same at his own cost and expense. Separation of logs.

R. S. O. 1887, c. 121, s. 9.

10. The several persons owning or controlling the intermixed logs shall respectively make adequate provisions and put on a fair proportion of the men required to make the separation; the cost and expense of such separation shall be borne by the parties in such proportions as they may agree upon, and in default of agreement, as may be determined by arbitration as hereinafter provided. R. S. O. 1887, c. 121, s. 10. Expenses of separation to be shared.

11.—(1) In case of neglect of any person to comply with the provisions of the last preceding section, it shall be Provision when owner

does not provide for his share of work.

lawful for any other person, whose logs are intermixed, to put on a sufficient number of men to supply the deficiency, and the logs owned by or controlled by the person guilty of such neglect shall be subject to a lien in favour of the person supplying the deficiency, for a fair proportion of the charges and expenses of making the separation, and for the reasonable charges and expenses of booming and keeping possession, and such person may take and keep possession of such logs or so much thereof as may be reasonably necessary to satisfy the amount of such fair proportion of charges and expenses pending the decision by arbitration, as hereinafter provided for.

(2) The person taking possession of logs under this section shall use all reasonable care not to take such logs beyond the place of their original destination, if known, but may securely boom and keep possession of the same at or above such place.

(3) The owner or person controlling such logs, if known, shall be forthwith notified of their whereabouts and if satisfactory security be given for the amount of such proportion of charges and expenses, possession of the logs shall be given up. R. S. O. 1887, c. 121, s. 11.

Form of security.

12. The security referred to in sections 5, 8 and 11 may be by bond in Form A in the schedule hereto, or by deposit of money, or in such other way as the parties may agree upon. R. S. O. 1887, c. 121, s. 12.

Damages when person has wrongfully detained logs or refused security.

13. If it be determined by arbitration, as hereinafter provided for, that any person acting under the assumed authority of this Act, has without just cause taken possession of or detained or caused to be taken possession of or detained logs of another person, or has after offer of security which the arbitrators may think should have been accepted, detained such logs, or has through want of reasonable care left logs of another person on the banks or shores or has taken logs of another person beyond the place of their original destination contrary to the provisions of sections 5, 8 or 11, then such first mentioned person shall pay to such last mentioned person such damages as the arbitrators may determine. R. S. O. 1887 c. 121, s. 13.

Lien under ss. 5, 8 and 11, subject to lien for tolls.

14. The lien given by sections 5, 8 and 11 of this Act shall be subject to the lien (if any) of any person for tolls or dues, for the use of any works or improvements made use of in running or driving logs. R. S. O. 1887, c. 121, s. 14.

Rights of Crown not affected.

15. Nothing in this Act shall affect the liens or rights of the Crown upon or in respect of any logs. R. S. O. 1887, c. 121, s. 15.

Disputes to be settled by arbitration.

16. All claims, disputes and differences arising under this Act shall be determined by arbitration as hereinafter provided and not by action. R. S. O. 1887, c. 121, s. 16.

17.—(1) The person claiming that another person has not complied with the provisions of this Act, or claiming payment of any charges or expenses under this Act, or claiming a lien upon any logs, or claiming damages under section 13, shall give to such other person notice in writing, stating the substance of the claims made, and appointing an arbitrator, and calling upon such other person to appoint an arbitrator within ten days after the service of the notice. Appointment of arbitrators.

(2) If such other person does not within the ten days appoint an arbitrator the Judge of the County or District Court of the county or district, or the Stipendiary Magistrate of the provisional county or the district, as the case may be, in which the logs in connection with which the claim or part of the claim is made, or the major portion of the logs are situate at the time of the service of the notice, shall, on the application of the person giving the notice, appoint a second arbitrator.

(3) The two arbitrators so appointed shall within ten days after the appointment of the second arbitrator appoint a third; if the two arbitrators do not within the ten days appoint a third, the Judge or Stipendiary Magistrate shall, on the application of either party, appoint the third arbitrator. R. S. O. 1887, c. 121, s. 17.

18. If an arbitrator refuses to act or becomes incapable of acting, or dies, and the parties do not concur in appointing a new arbitrator, the Judge or Stipendiary Magistrate shall, on the application of either party, appoint a new arbitrator. Appointment of new arbitrators. R. S. O. 1887, c. 121, s. 18.

19. The parties may agree that the arbitration shall be by one arbitrator instead of by three, and they may either agree upon the arbitrator or may apply to the Judge or Stipendiary Magistrate to appoint one. Parties may agree to have only one arbitrator. R. S. O. 1887, c. 121, s. 19

20. The person on whom a claim is made and notice of arbitration served may at any time before the arbitration is entered upon or with leave of the arbitrators during the arbitration, give the claimant notice in writing by way of counterclaim, stating the substance of any claim arising under this Act which such person may have against the claimant, and such counterclaim, unless barred under section 27, shall be determined in the arbitration and an award made with respect thereto. Counterclaim. R. S. O. 1887, c. 121, s. 20.

21. The three arbitrators or the sole arbitrator, as the case may be, shall proceed with the arbitration with due despatch, and shall make their or his award in writing, under their or his hand within thirty days from the date of the appointment of such arbitrator, or the last of such three arbitrators, as the case may be. The parties may, by consent in writing, from time to time enlarge the time for making the award, or Time within which award to be made.

the Judge or Stipendiary Magistrate may from time to time, either before or after the expiration of the said time, enlarge the time for making the award. R. S. O. 1887, c. 121, s. 21.

Witnesses and evidence.

22. The arbitrators or arbitrator may require the personal attendance and examination upon oath of the parties and their witnesses and the production of all books and documents relating to the matters in question, and may determine by whom the expense of the arbitration, and the costs of the parties shall be paid, and the amount thereof; any costs or expenses payable to a person having a lien upon logs, by virtue of this Act shall be added to the amount of such lien. R. S. O. 1887, c. 121, s. 22.

Authority as to costs.

Rev. Stat. c. 62, ss. 18-27 to apply.

23. Sections 18 to 27 inclusive of *The Arbitration Act* shall apply to arbitrations under this Act. R. S. O. 1887, c. 121, s. 23.

Sale by person having lien.

24. The person having a lien upon logs by virtue of this Act, may sell such logs in order to realize the amount of such lien, and of the costs, charges and expenses connected with the sale. The arbitrators, or arbitrator, shall determine either by their award or by separate document the time, place and manner of such sale, and may from time to time, give directions, in writing, respecting such sale, and the realization of such lien, and of the costs, charges and expenses connected therewith. R. S. O. 1887, c. 121, s. 24

Award and directions to be final.

25. The award and directions in writing, of any two of the three arbitrators, or of the sole arbitrator, as the case may be, shall be final and binding upon and shall be obeyed by the parties, and shall be valid, notwithstanding any want or defect of form or other technical objection. R. S. O. 1887, c. 121, s. 25.

Compelling attendance of witnesses and production of documents.

26. The Judge or Stipendiary Magistrate, as the case may be, may, on the application of either party, grant an order to compel any person to attend and give evidence upon the arbitration and to produce all books and documents relating to the matters in dispute, and obedience to such order may be enforced in the same way as obedience to any order of such Judge or Stipendiary Magistrate made in a cause or matter pending before him in court may be enforced, and the person neglecting or refusing, without lawful excuse, to obey such order, shall be liable to an action by any person aggrieved by such neglect or refusal for the damages sustained by him thereby. R. S. O. 1887, c. 121, s. 26.

Liability for non-attendance.

Limitation of claims.

27. All claims arising under this Act shall be made by notice in writing under section 17, within one year after the same have arisen, otherwise they shall be barred. R. S. O. 1887, c. 121, s. 27.

28. The Lieutenant-Governor in Council may from time to time by proclamation published in the *Ontario Gazette* declare that any part of this Province or any water therein shall, until further proclamation, be exempt from the operation of this Act, and thereupon the same shall be exempt accordingly. R. S. O. 1887, c. 121, s. 28.

Lieut.-Gov-
ernor in
Council may
exempt terri-
tory from
Act.

29. Any part of this Province, or any water therein exempted by proclamation from the operation of this Act may, by proclamation published in the *Ontario Gazette*, be again brought within its operation until further proclamation, and so on from time to time. R. S. O. 1887, c. 121, s. 29.

Territory ex-
empted may
be again
brought
under Act.

SCHEDULE.

FORM A.

(Section 12.)

Know all men by these presents that we (*here insert names of obligors, being the owner of the logs and at least one sufficient surety ; or, if the signature of the owner cannot be obtained without unreasonable delay, then being two sureties*), are held and firmly bound unto A. B. (*here insert the name of the person claiming the lien*) in the penal sum of (*double the amount of the claim*) \$, to be paid to the said A. B., his executors, administrators and assigns, for which payment well and truly to be made, we and each of us, bind ourselves, and each of us our and each of our executors and administrators jointly and severally, firmly by these presents, sealed with our seals, and signed by us this day of , A. D., 18 .

Whereas the said A. B., claiming to act under the authority of *The Saw Logs Driving Act*, has taken possession of certain (saw logs, timber, etc., as the case may be) owned or controlled by and claims a lien thereon for the sum of \$, under the provisions of section (5, 8 or 11, as the case may be) of the said Act.

And whereas this bond is given as security for payment to the said A. B., of such sum as he may be held entitled to by arbitration pursuant to the said Act. and of any costs and expenses of the arbitration which may become payable to him.

Now the condition of the above obligation is such that if the said , his executors or administrators do pay to the said A. B., his executors, administrators or assigns, such sum as may be determined by arbitration pursuant to the said Act, to be payable to the said A. B., his executors, administrators or assigns, for charges and expenses under section (5, 8 or 11, as the case may be) of said Act, and also such sum as may become payable to the said A. B., his executors, administrators or assigns, for costs and expenses of such arbitration, then the above obligation to be void, otherwise to remain in full force.

Signed, sealed and delivered }
in the presence of X. Y. }

C. D. [SEAL.]
F. G. [SEAL.]

SECTION X.

MERCANTILE LAW.

CHAPTER 144.

An Act respecting the Legal Meaning of Expressions
relative to Time.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

“Short title.” 1. This Act may be cited as ‘*The Definition of Time Act.*’
58 V. c. 2, s. 3.

Expressions
as to time to
refer to
standard
time.

2. Where an expression of time occurs in any Act of this
Legislature, whether heretofore or hereafter passed, or in any
Rule of Court, by-law, deed or other legal instrument, whether
heretofore or hereafter enacted or executed, or whenever any
hour or other period of time is stated either orally or in writ-
ing, or whenever any question as to a period of time arises,
the time referred to or intended shall, unless it is otherwise
specifically stated, be held to be “standard time”; and as re-
gards that part of the Province which lies east of the meri-
dian of eighty-seven degrees west longitude, standard time
shall be reckoned as five hours behind Greenwich time; and
as regards that part of the Province which lies west of the
said meridian, standard time shall be reckoned as six hours
behind Greenwich time. 58 V. c. 2, s. 1; 59 V. c. 18, Sched
(45); 60 V. c. 15, Sched. A. (61) part.

“Month,”
meaning of.

3. Where the expression “month” occurs or is stated as in
the preceding section mentioned, it shall mean a calendar
month unless it is otherwise specifically stated. 60 V. c. 15,
Sched. A. (61) part.

Numbering
hours of day
up to 24.

4. The hours of the day may in any locality be numbered
in one series up to 24 according to the “24-hour notation” so
called, and the numbers so used shall be equally valid with the
numbers used in the division of the day into two series of 12
hours, distinguished as “a.m.” and “p.m.” 58 V. c. 2, s. 2.

CHAPTER 145.

An Act to amend the Mercantile Law.

SHORT TITLE, s. 1.

SURETIES :

Paying principal's debt to be entitled to securities, remedies, etc., of the creditor, ss. 2, 3.

Rights, *inter se*, s. 4.

BILLS OF LADING :

Rights, under, transferable by endorsement, s. 5 (1, 2).

Conclusive as against the signer, s. 5 (3).

WAREHOUSE RECEIPTS, ETC., AS COLLATERAL SECURITY, ss. 6-20.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Mercantile Amendment Act*." R. S. O. 1887, c. 122, s. 1.

2. Every person who, being surety for the debt or duty of another, or being liable with another for any debt or duty, pays the debt or performs the duty, shall be entitled to have assigned to him or a trustee for him, every judgment, specialty, or other security which is held by the creditor in respect of such debt or duty, whether such judgment, specialty or other security be or be not deemed at law to have been satisfied by the payment of the debt or the performance of the duty. R. S. O. 1887, c. 122, s. 2.

Right of sureties paying the principal debt, etc., to assignment.

3. Such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and, if need be, and on proper indemnity, to use the name of the creditor in any action or other proceeding in order to obtain from the principal debtor, or any co-surety, co-contractor or co-debtor, as the case may be, indemnification for the advances made and loss sustained by the person who has so paid such debt or performed such duty; and such payment or performance so made by such surety shall not be a defence to such action or other proceeding by him. R. S. O. 1887, c. 122, s. 3.

And to remedies on such assignment.

4. No co-surety, co-contractor or co-debtor shall be entitled to recover from any other co-surety, co-contractor or co-debtor, by the means aforesaid, more than the just proportion to which, as between those parties themselves, such last mentioned person is justly liable. R. S. O. 1887, c. 122, s. 4.

What only one co-surety, etc., may recover from another.

BILLS OF LADING.

Preamble.

5. Whereas by the custom of merchants a bill of lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the bill of lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property; and whereas it frequently happens that the goods in respect of which bills of lading purport to be signed have not been laden on board, and it is proper that such bills of lading in the hands of a *bona fide* holder for value should not be questioned by the master or other person signing the same, on the ground of the goods not having been laden as aforesaid;

Therefore it is enacted as follows;

Rights and liabilities of consignees and endorsees of bills of lading. Imp. Act, 18-19 V. c. 111.

1. Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon or by reason of such consignment or endorsement, shall have transferred to, and vested in him all rights of action, and be subject to the same liabilities in respect of the goods as if the contract contained in the bill of lading had been made to himself.

Certain rights and liabilities not affected.

2. Nothing in this section contained shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or in consequence of such consignment or endorsement.

Bills of lading as evidence against signer.

3. Every bill of lading in the hands of a consignee or endorsee for valuable consideration representing goods to have been shipped on board a vessel or train shall be conclusive evidence of the shipment as against the master or other person signing the same, notwithstanding that the goods or some part thereof may not have been so shipped, unless the holder of the bill of lading has actual notice at the time of receiving the same that the goods had not in fact been laden on board, or unless the bill of lading has a stipulation to the contrary; but the master or other person so signing, may exonerate himself in respect to such misrepresentation, by shewing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or of some person under whom the holder claims. R. S. O. 1887, c. 122, s. 5.

WAREHOUSE RECEIPTS, ETC., AS COLLATERAL SECURITY.

Interpretation.
"Goods, wares and merchandise."

6. The words "goods, wares and merchandise" when used in the following sections of this Act, shall, except where, otherwise expressly provided in said sections, be held to comprise, in addition to the things usually understood thereby, timber, boards, deals, staves and other lumber. R. S. O. 1887, c. 122, s. 14.

7. Any cove receipt, bill of lading, specification of timber or any receipt given by a cove keeper, miller, or by the keeper of a warehouse, wharf, yard, harbour or other place, for cereal grains, goods, wares or merchandise laid up, stored or deposited, or to be laid up, stored or deposited in or on the cove, mill, warehouse, wharf, yard, harbour or other place in this Province, of which he is keeper, or any bill of lading or receipt given by a master of a vessel, or by a carrier for carrying cereal grains, goods, wares or merchandise shipped in such vessel or delivered to such carrier for carriage from any place whatever, to any part of this Province or through the same, or on the waters bordering thereon, or from the same to any other place whatever, and whether such cereal grains are to be delivered upon such receipt *in specie* or converted into flour, may, by endorsement thereon by the owner of, or person entitled to receive such cereal grains, goods, wares or merchandise, or his attorney or agent, be transferred to any private person as collateral security for any debt due to such private person, and being so endorsed shall vest in such private person from the date of the endorsement, all the right and title of the endorser to or in such cereal grains, goods, wares or merchandise, subject to the right of the endorser to have the same retransferred to him, if the debt is paid when due; and in the event of the non-payment of the debt when due, such private person may sell the said cereal grains, goods, wares or merchandise and retain the proceeds or so much thereof as will be equal to the amount due to the private person upon the debt, with any interest or costs, returning the overplus, if any, to the endorser. R. S. O. 1887, c. 122, s. 15.

Cove receipts, etc., may be transferred by endorsement as collateral security.

And may sell the goods if such bills are not duly paid, returning surplus, etc.

8. Where a person engaged in the calling of cove-keeper, miller, or of keeper of any warehouse, wharf, yard, harbour or other place, master of a vessel or carrier, by whom a receipt or bill of lading may be given in such his capacity, as hereinbefore mentioned, for cereal grains, goods, wares or merchandise, is at the same time the owner of or entitled himself (otherwise than in his capacity of cove-keeper, miller, or of keeper of a warehouse, wharf, yard, harbour or other place, or of master of a vessel or carrier) to receive such cereal grains, goods, wares or merchandise, any such receipt or bill of lading, or any acknowledgment or certificate intended to answer the purpose of such receipt or bill of lading, given and endorsed by such person, shall be as valid and effectual for the purposes of this Act, as if the person giving such receipt or bill of lading acknowledgment or certificate, and endorsing the same, were not one and the same person. R. S. O. 1887, c. 122, s. 16.

Cove-keeper, etc., owning or being entitled to the goods, may, notwithstanding, give a receipt, etc., and endorse it.

9. No such cereal grains, and no such goods, wares or merchandise (other than timber, boards, deals, staves or other lumber), shall be held in pledge by such private person for any period exceeding six months; and no transfer of such bill of lading, specification of timber or receipt, shall be made under this Act

Goods, except timber, etc., not to be held beyond six months.

Debt to be contracted at time of transfer of bill.

Goods not to be sold without notice to the owner.

Timber, etc., not to be held beyond twelve months, etc.

Sale to be by auction after notice.

In places where no daily newspaper is published.

Advance on cove receipts, etc., to give a lien on timber, etc., prior to claims of vendors or creditors.

to secure the payment of any debt, unless the debt is contracted at the same time with the endorsement of the bill of lading, specification of timber or receipt; and further, no sale of any cereal grains or of goods, wares or merchandise, (other than timber, boards, deals, staves or other lumber,) shall take place under this Act until and unless ten days notice of the time and place of the sale has been given by registered letter transmitted through the post office, to the owner of such cereal grains or such goods, wares or merchandise other than as aforesaid prior to the sale thereof. R. S. O. 1887, c. 122, s. 17.

10.—(1) No timber, boards, deals, staves or other lumber, shall be held in pledge by such private person, for any period exceeding twelve months; and no transfer of any such receipt or bill of lading shall be made under this Act to secure the payment of any debt, unless the debt is contracted at the same time with the endorsement of the receipt or bill of lading; and further, no sale of any timber, boards, deals, staves or other lumber, shall be made under this Act, until and unless thirty days' notice of the time and place of such sale has been given, by registered letter transmitted through the post office, to the owner of the timber, boards, deals, staves, or other lumber prior to the sale thereof.

(2) Every such sale shall be made by public auction, after notice thereof by advertisement, stating the time and place thereof, for at least eight days consecutively, in at least two daily newspapers published in or nearest to the place where such sale is to be made.

(3) A daily newspaper shall be deemed to be published nearest to a place if no two other daily newspapers are published in or nearer to such place.

(4) If in any place where any such sale by auction is to be made, there is not a newspaper published daily, but some newspaper or newspapers is or are published there less often than daily, then the advertisement shall also be published in every issue of such local newspaper, or of at least one of such local newspapers, during the time of its being published in daily newspapers. R. S. O. 1887, c. 122, s. 18.

11. All advances made on the security of any such cove receipt, bill of lading, specification, receipt, acknowledgment or certificate as aforesaid, shall give and be held to give to the person making the advances, a claim for the repayment of such advances on the cereal grains, goods, wares or merchandise therein mentioned, prior to and by preference over the claim of any unpaid vendor, or other creditor, save and except claims for wages of labour performed in making and transporting such timber, boards, deals, staves or other lumber. R. S. O. 1887, c. 122, s. 19.

12. All transportation and warehouse receipts, accepted orders and certificates for crude petroleum, issued by any company heretofore, or which may, at any time hereafter, be incorporated under competent authority, and authorized to carry on the business of warehousing, shall be transferable by endorsement, either special or in blank, and upon being endorsed in blank shall become transferable by delivery, and every such endorsement or transfer by delivery shall transfer all right of property and possession of the petroleum mentioned in any such transportation or warehouse receipt, accepted order or certificate, to the endorsee or transferee thereof, subject to the terms and conditions of such transportation or warehouse receipt, accepted order or certificate, as fully and completely as if a sale of the petroleum mentioned therein had been made in the ordinary way; and on the delivery of any petroleum mentioned in such document, by such company, in good faith, to a person in possession of such transportation or warehouse receipt, accepted order or certificate, endorsed or transferred as aforesaid, the company shall be freed from all further liability in respect thereof, and the endorsee, or transferee or holder of every such transportation or warehouse receipt, accepted order or certificate, to whom the property in the petroleum mentioned therein passes by reason of such endorsement or delivery, shall have transferred to and vested in him all rights of action and be subject to the same liabilities in respect of such petroleum as if the contract contained in the transportation or warehouse receipt, accepted order or certificate had been made by the company with himself. R. S. O. 1887, c. 122, s. 20.

Transfer of
warehouse
receipts for
crude
petroleum
issued by
incorporated
companies.

CHAPTER 146.

An Act respecting Written Promises and Acknowledgments of Liability.

WRITTEN ACKNOWLEDGMENT, ETC., REQUIRED TO TAKE CASE OUT OF STATUTE OF LIMITATIONS IN CERTAIN CASES, s. 1.	RATIFICATION OF PROMISE MADE DURING INFANCY, TO BE IN WRITING, s. 6.
ACKNOWLEDGMENT, ETC., BY ONE OF SEVERAL JOINT CONTRACTORS, s. 2.	REPRESENTATION AS TO CREDIT OR CHARACTER, s. 7.
RECOVERY AGAINST JOINT CONTRACTORS, s. 3.	CONSIDERATION FOR A GUARANTY NEED NOT APPEAR IN WRITING, s. 8.
ENDORSEMENTS BY PAYEE ON A BILL OR NOTE, s. 4.	SECTION 17 OF THE STATUTE OF FRAUDS, EXTENDED TO GOODS TO BE DELIVERED AT A FUTURE TIME, s. 9.
SET OFF WITHIN STATUTES OF LIMITATIONS, s. 5.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

Promise by
—, is not
sufficient to
take the
case out
of the Statute
of Limitations,
21 Jac. I, c. 16.

1. No acknowledgment or promise by words only shall be deemed sufficient evidence of a new or continuing contract whereby to take out of the operation of the Act, passed in England in the twenty-first year of the Reign of King James the First, any case falling within the provisions of the said Act respecting actions

- (a) Of account and upon the case other than such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants;
- (b) On simple contract or of debt grounded upon any lending or contract without specialty and
- (c) Of debt for arrears of rent;

or to deprive any party of the benefit thereof, unless such acknowledgment or promise is made or contained by or in some writing signèd by the party chargeable thereby, or by his agent duly authorized to make such acknowledgment or promise. R. S. O. 1887, c. 123, s. 1.

Case of two or
more joint con-
tractors or
executors.

2. Where there are two or more joint contractors, or executors or administrators of any contractor, no such joint contractor, executor or administrator shall lose the benefit of the

said Act so as to be chargeable in respect or by reason only of any written acknowledgment or promise made and signed by any other or others of them, or by reason of any payment of any principal or interest made by any other or others of them R. S. O. 1887, c. 123, s. 2.

3. In actions commenced against two or more such joint contractors, executors or administrators, if it appears at the trial or otherwise that the plaintiff, though barred by the said Act of King James the First or by this Act, as to one or more of such joint contractors, or executors or administrators, is nevertheless entitled to recover against any other or others of the defendants by virtue of a new acknowledgment, promise or payment as aforesaid, judgment shall be given for the plaintiff as to the defendant or defendants against whom he recovers, and for the other defendant or defendants against the plaintiff. R. S. O. 1887, c. 123, s. 3.

Judgment where plaintiff is barred as to one or more defendants but not as to all.

4. No endorsement or memorandum of any payment, written or made upon any promissory note, bill of exchange, or other writing, by or on behalf of the party to whom the payment has been made, shall be deemed sufficient proof of the payment, so as to take the case out of the operation of the said Act of King James. R. S. O. 1887, c. 123, s. 4.

Endorsement, etc., made by the payee not to take a note, etc., out of the statute.

5. The said Act of King James and this Act, shall apply to the case of any claim of the nature hereinbefore mentioned, alleged by way of set-off on the part of any defendant. R. S. O. 1887, c. 123, s. 5.

Statute to apply to set-off.

6. No action shall be maintained whereby to charge any person upon any promise made after full age to pay any debt contracted during infancy, or upon any ratification after full age of any promise or simple contract made during infancy, unless the promise or ratification is made by some writing signed by the party to be charged therewith, or by his agent duly authorized to make the promise or ratification. R. S. O. 1887, c. 123, s. 6.

As to ratification of promise made during non-age.

7. No action shall be brought whereby to charge any person upon or by reason of any representation or assurance made or given concerning or relating to the character, conduct, credit, ability, trade or dealings of any other person, to the intent or purpose that such other person may obtain money, goods or credit thereupon, unless the representation or assurance is made in writing signed by the party to be charged therewith. R. S. O. 1887, c. 123, s. 7.

As to representation regarding the character, credit, etc., of a third party.

8. No special promise made by any person to answer for the debt, default or miscarriage of another person, being in writing and signed by the party to be charged therewith, or by some other person by him thereunto lawfully authorized, shall be in writing.

Consideration for promise to answer for another need not be in writing.

shall be deemed invalid to support an action, or other proceeding to charge the person by whom the promise has been made, by reason only that the consideration for the promise does not appear in writing, or by necessary inference from a written document. R. S. O. 1887, c. 123, s. 8.

Statute of
Frauds, 29 Car.
ii, c. 3, extend-
ed to contracts
for goods to be
delivered at a
future time.

9. Section 17 of the Act passed in England in the 29th year of the Reign of King Charles the Second, entitled, "*An Act for the prevention of Frauds and Perjuries*," shall extend to all contracts for the sale of goods of the value of \$40 and upwards, notwithstanding that the goods may be intended to be delivered at some future time, or may not at the time of the contract be actually made, procured or provided, or fit or ready for delivery, or although some act may be requisite for the making or completing thereof, or rendering the same fit for delivery. R. S. O. 1887, c. 123, s. 9.

CHAPTER 147.

An Act respecting Assignments and Preferences by Insolvent persons.

CONFESSIONS OF JUDGMENT, COGNOVITS, ETC., IN FRAUD OF CREDITORS TO BE VOID, s. 1.	MEETING OF CREDITORS, ss. 17, 18.
ASSIGNMENTS, ETC., IN PREJUDICE OF CREDITORS TO BE VOID, s. 2.	Voting, ss. 19, 20.
RECOVERY OF PROCEEDS WHERE PROPERTY SOLD, s. 10.	PROOF OF CLAIM, s. 21.
ASSIGNMENTS FOR BENEFIT OF CREDITORS, ss. 3-6.	CONTESTATION, ss. 22, 23.
How claims are to rank, s. 7.	ASSETS TO BE RETAINED IN PROVINCE, s. 24.
Appointment and rights of assignee, ss. 8-10.	ACCOUNTS AND STATEMENT, s. 25.
Assignments to take precedence of executions, s. 11.	SET OFF, s. 26.
Amendment by Court, s. 12.	AFFIDAVITS, s. 27.
Assignment to be registered and notice thereof published, ss. 13-16.	DIVIDENDS AND DIVIDEND SHEET, ss. 28-30.
	ASSIGNEE'S REMUNERATION, ss. 31, 32.
	INSPECTOR'S REMUNERATION, s. 33.
	EXAMINATION OF ASSIGNOR, ETC., ss. 34-39.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In case any person, being at the time in insolvent circumstances, or unable to pay his debts in full, or knowing himself to be on the eve of insolvency, voluntarily or by collusion with a creditor or creditors, gives a confession of judgment, *cognovit actionem* or warrant of attorney to confess judgment with intent, in giving such confession, *cognovit actionem* or warrant of attorney to confess judgment, to defeat or delay his creditors wholly or in part or with intent thereby to give one or more of the creditors of any such person a preference over his other creditors, or over any one or more of such creditors, every such confession, *cognovit actionem* or warrant of attorney to confess judgment, shall be deemed and taken to be null and void as against the creditors of the party giving the same, and shall be invalid and ineffectual to support any judgment or writ of execution. R. S. O. 1887, c. 124, s. 1.

Confessions or warrants to confess judgment given by insolvents to defeat or delay creditors or to give one preference over the other to be void.

2. (1) Subject to the provisions of section 3 of this Act, every gift, conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes or securities, or of shares dividends, premiums, or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency with intent to defeat,

Gifts, transfers, etc., made by insolvents which defeat or prejudice creditors to be void.

hinder, delay or prejudice his creditors, or any one or more of them, shall as against the creditor or creditors injured, delayed or prejudiced be utterly void.

(2) Subject to the provisions of section 3 aforesaid, every gift conveyance, assignment or transfer, delivery over or payment of goods, chattels or effects, or of bills, bonds, notes, or securities, or of shares, dividends, premiums, or bonus in any bank, company or corporation, or of any other property, real or personal, made by a person at a time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency, to or for a creditor with intent to give such creditor an unjust preference over his other creditors or over any one or more of them, shall, as against the creditor or creditors injured, delayed, prejudiced or postponed, be utterly void.

(3) Subject to the provisions of section 3 aforesaid, if such transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall in and with respect to any action or proceeding which, within sixty days thereafter, is brought, had or taken to impeach or set aside such transaction, be presumed *prima facie* to have been made with the intent aforesaid, and to be an unjust preference within the meaning hereof whether the same be made voluntarily or under pressure.

(4) Subject to the provisions of section 3 aforesaid, if such transaction with or for a creditor has the effect of giving that creditor a preference over the other creditors of the debtor or over any one or more of them, it shall, if the debtor within sixty days after the transaction makes an assignment for the benefit of his creditors, be presumed *prima facie* to have been made with the intent aforesaid, and to be an unjust preference within the meaning hereof, whether the same be made voluntarily or under pressure. 54 V. c. 20, s. 1.

"Creditor"
for certain
purposes to
include surety
and endorser.

(5) Where the word "creditor" occurs in the eighth and ninth lines of subsection 2 of this section, and in the second and third lines of subsection 3, and in the second and third lines of subsection 4, such word shall be deemed to include any surety and the indorser of any promissory note or bill of exchange, who would upon payment by him of the debt, promissory note or bill of exchange, in respect of which such suretyship was entered into or such endorsement was given become a creditor of the person giving the preference within the meaning of said subsections. This subsection shall not affect any action, suit or proceeding pending on the 14th day of April, 1892, but the same shall be adjudicated upon and determined as if this subsection had not been passed. 55 V. c. 25, s. 1, 2.

Pending proceedings not affected.

Assignments for benefit of creditors and bona fide sales, etc., protected.

3.—(1) Nothing in the preceding section shall apply to any assignment made to the sheriff of the county in which the debtor resides or carries on business, or with the consent of a

majority of his creditors having claims of \$100 and upwards computed according to the provisions of section 20, to another assignee resident within the Province of Ontario, for the purpose in each of the said cases of paying rateably and proportionately and without preference or priority all the creditors of the debtor their just debts; nor to any *bona fide* sale or payment made in the ordinary course of trade or calling to innocent purchasers or parties; nor to any payment of money to a creditor, nor to any *bona fide* conveyance, assignment, transfer or delivery over of any goods, securities or property of any kind, as above-mentioned, which is made in consideration of any present actual *bona fide* payment in money, or by way of security for any present actual *bona fide* advance of money, or which is made in consideration of any present actual *bona fide* sale or delivery of goods or other property; provided that the money paid, or the goods or other property sold or delivered bear a fair and reasonable relative value to the consideration therefor.

Proviso.

(2) In case of a valid sale of goods, securities or property, and payment or transfer of the consideration or part thereof by the purchaser to a creditor of the vendor, under circumstances which would render void such a payment or transfer by the debtor personally and directly, the payment or transfer, even though valid as respects the purchaser, shall be void as respects the creditor to whom the same is made. R. S. O. 1887, c. 124, s. 3 (1, 5).

Transfer to creditor of consideration for sale invalid.

(3) Every assignment for the general benefit of creditors, which is not void under section 2 of this Act, but is not made to the sheriff, nor to any other person with the prescribed consent of creditors, shall be void as against a subsequent assignment which is in conformity with this Act, and shall be subject in other respects to the provisions of this Act until and unless a subsequent assignment is executed in accordance with this Act.

General assignment not in accordance with Act, when voidable.

(4) In case a payment has been made which is void under this Act, and any valuable security was given up in consideration of the payment, the creditor shall be entitled to have the security restored, or its value made good to him before, or as a condition of, the return of the payment. R. S. O. 1887, c. 124, s. 3 (2, 3).

Security given up upon void payment to be returned.

(5) Nothing herein contained shall affect *The Act respecting Wages*, or shall prevent a debtor providing for payment of wages due by him in accordance with the provisions of the said Act. Nor shall anything herein contained affect any payment of money to a creditor, where such creditor by reason or on account of such payment, has lost or been deprived of, or has in good faith given up, any valid security which he held for the payment of the debt so paid, unless the value of the security is restored to the creditor. Nor to the substitution in good faith of one security for another security for the same debt so far as the debtor's

Rev. Stat. c. 156.

Payment of wages protected.

Exchange of securities protected.

Certain assignments to be valid.

estate is not thereby lessened in value to the other creditors. Nor shall anything herein contained invalidate a security given to a creditor for a pre-existing debt where by reason or on account of the giving of the security, an advance in money is made to the debtor by the creditor, in the *bona fide* belief that the advance will enable the debtor to continue his trade or business, and to pay his debts in full. R. S. O. 1887, c. 124 s. 3 (4); 54 V. c. 20, s. 2.

Assignee must reside in the Province.

4. No person other than a permanent and *bona fide* resident of this Province shall have power to act as assignee under an assignment within the provisions of this Act made after the 23rd day of March, 1889, nor shall any such assignee have power to appoint a deputy or to delegate his duties as assignee to any person who is not a permanent and *bona fide* resident of this Province; and no charge shall be made or recoverable against the assignor or his estate for any services or other expenses of any such assignee, deputy or delegate of any assignee who is not a permanent and *bona fide* resident of this Province as aforesaid. 52 V. c. 21, s. 1.

Form of assignment for general benefit of creditors.

5. Every assignment made under this Act, for the general benefit of creditors shall be valid and sufficient if it is in the words following, that is to say—all my personal property which may be seized and sold under execution and all my real estate, credits and effects—or if it is in words to the like effect; and an assignment so expressed shall vest in the assignee all the real and personal estate, rights, property, credits and effects, whether vested or contingent belonging at the time of the assignment to the assignor, except such as are by law exempt from seizure, or sale under execution, subject, however, as regards lands, to the provisions of the registry law as to the registration of the assignment. R. S. O. 1887, c. 124, s. 4.

[As to the preferential lien of a landlord, see Cap. 170, sec. 34.]

All assignments for general benefit of creditors to be subject to this Act.

6. Every assignment hereafter executed for the general benefit of creditors, whether the assignment is or is not expressed to be made under or in pursuance of this Act, and whether the debtor has or has not included all his real and personal estate, shall vest the estate, whether real or personal or partly real and partly personal, thereby assigned in the assignee therein named for the general benefit of creditors, and such assignment and the property thereby assigned shall be subject to all the provisions of this Act, and the provisions of this Act shall apply to the assignee named in such assignment. 58 V. c. 23, s. 5.

How claims are to rank where different estates.

7. If any assignor or assignors executing an assignment under this Act for the general benefit of his or their creditors owes or owe, debts both individually and as a member of a co-partnership, or as a member of different co-partnerships, the

claims shall rank first upon the estate by which the debts they represent were contracted, and shall only rank upon the other or others after all the creditors of such other estate or estates have been paid in full. R. S. O. 1887, c. 124, s. 5.

8.—(1) A majority in number and value of the creditors who have proved claims to the amount of \$100 or upwards, may at their discretion substitute for the sheriff, or for an assignee under an assignment to which subsection 3 of section 3 of this Act applies, a person residing in the county in which the debtor resided, or carried on business at the time of the assignment. An assignee may be removed, and another substituted, or an additional assignee appointed by a Judge of the High Court, or of the County Court where the assignment is registered. R. S. O. 1887, c. 124, s. 6 (1); 53 V. c. 34, s. 1.

Appointment of substituted assignee.

(2) Where a new or additional assignee is appointed the estate shall forthwith vest without a conveyance or transfer, and he shall register an affidavit of his appointment in the office in which the original assignment was filed, such an affidavit may also be registered under *The Registry Act*. The registration of the affidavit under *The Registry Act* shall have the same effect as the registration of a conveyance. R. S. O. 1887, c. 124, s. 6 (2).

Estate to vest in substituted assignee.

Rev. Stat. c. 136.

9.—(1) Except as in this section is hereinafter provided, the assignee shall have an exclusive right of suing for the rescission of agreements, deeds and instruments or other transactions made or entered into in fraud of creditors, or made or entered into in violation of this Act.

Rights of assignee.

(2) If at any time a creditor desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the estate, and the assignee under the authority of the creditors or inspectors, refuses or neglects to take such proceeding, after being duly required so to do, the creditor shall have the right to obtain an order of the Judge authorizing him to take the proceedings in the name of the assignee, but at his own expense and risk, upon such terms and conditions as to indemnity to the assignee, as the Judge may prescribe, and thereupon any benefit derived from the proceedings shall, to the extent of his claim and full costs, belong exclusively to the creditor instituting the same for his benefit, but if, before such order is granted, the assignee shall signify to the Judge, his readiness to institute the proceedings for the benefit of the creditors, the order shall prescribe the time within which he shall do so, and in that case the advantage derived from the proceeding, if instituted within such time, shall belong to the estate. R. S. O. 1887, c. 124, s. 7.

Creditor may proceed in certain cases if assignee refuses.

10.—(1) In the case of a gift, conveyance, assignment or transfer of any property, real or personal, which in law is invalid against creditors, if the person to whom the gift, conveyance, following proceeds of property fraudulently transferred.

assignment or transfer was made shall have sold or disposed of, realized or collected the property or any part thereof, the money or other proceeds may be seized or recovered in any action by a person who would be entitled to seize and recover the property if it had remained in the possession or control of the debtor or of the person to whom the gift, conveyance, transfer, delivery or payment was made, and such right to seize and recover shall belong, not only to an assignee for the general benefit of the creditors of the said debtor, but in case there is no such assignment, shall exist in favour of all creditors of such debtor. 58 V. c. 23, s. 1.

Taking proceeds under execution.

(2) Where there has been no assignment for the benefit of creditors, and the proceeds are of a character to be seizable under execution, they may be seized under the execution of any creditor, and shall be distributable amongst the creditors under *The Creditors' Relief Act* or otherwise. 58 V. c. 23, s. 2.

Rev. Stat. c. 78.

Creditor suing on behalf of himself and other creditors.

(3) Where there has been no assignment for the benefit of creditors, and whether the proceeds realized aforesaid are or are not of a character to be seized under execution, an action may be brought therefor by a creditor (whether an execution creditor or not), on behalf of himself and all other creditors, or such other proceedings may be taken as may be necessary to render the said proceeds available for the general benefit of the creditors. 58 V. c. 23, s. 3.

Protection of innocent purchasers.

(4) This section shall not apply as against innocent purchasers of the property. 58 V. c. 23, s. 4.

Assignments to take precedence of judgments and executions.

11. An assignment for the general benefit of creditors under this Act shall take precedence of all attachments, of all judgments and of all executions not completely executed by payment, subject to the lien, if any, of an execution creditor for his costs where there is but one execution in the sheriff's hands, or to the lien, if any, of the creditor for his costs who has the first execution in the sheriff's hands. R. S. O. 1887, c. 124, s. 9; 59 V. c. 31, s. 2.

Amendment of assignment by judge.

12. No advantage shall be taken or gained by any creditor of any mistake, defect or imperfection in any assignment under this Act for the general benefit of creditors if the same can be amended or corrected, and any such mistake, defect or imperfection shall be amended by any Judge of the High Court, or of the County Court aforesaid, on application of the assignee or of any creditor of the assignor, on such notice being given to other parties concerned as the Judge shall think reasonable, and the amendment, when made, shall have relation back to the date of the assignment, but so as not to prejudice the rights of innocent purchasers. R. S. O. 1887, c. 124, s. 10; 60 V. c. 3, s. 3.

13.—(1) No assignment made for the general benefit of creditors under this Act shall be within the operation of *The Act respecting Mortgages and Sales of Personal Property*; but a notice of the assignment shall, as soon as conveniently may be, be published at least once in the *Ontario Gazette* and not less than twice in one newspaper at the least, having a general circulation in the county in which the property assigned is situate.

Notice of assignment to be published.
Rev. Stat. c. 148.

(2) A counterpart or copy of every such assignment shall also within five days from the execution thereof be registered, (together with an affidavit of a witness thereto of the due execution of the assignment or of the due execution of the assignment of which the copy filed purports to be a copy), in the office of the clerk of the County Court of the county or union of counties where the assignor, if a resident in Ontario, resides at the time of the execution thereof, or if he is not a resident then in the office of the clerk of the County Court of the county or union of counties where the personal property so assigned is or where the principal part thereof (in case the assignment includes property in more counties than one) is at the time of the execution of such assignment; and such clerks shall file all such instruments presented to them respectively for that purpose, and shall endorse thereon the time of receiving the same in their respective offices, and the same shall be kept there for the inspection of all persons interested therein. The said clerks respectively shall number and enter such assignments, and be entitled to the same fees for services in the same manner as if such assignments had been registered under *The Act respecting Mortgages and Sales of Personal Property*. R. S. O. 1887, c. 124, s. 12 (1, 2).

Assignment to be registered.

Rev. Stat. c. 148.

(3) In the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay and Rainy River, and in any other district which may be hereafter formed, and in the Provisional County of Haliburton the counterpart or copy of the assignment shall be filed in the same office and within the same time respectively as by the law at the time of the assignment in force mortgages and bills of sale of personal property are required to be filed in such districts, and provisional county respectively, and the clerk in whose office the same is filed shall perform the like duties and be entitled to be paid the like fees as clerks acting under the preceding subsection. 59 V. c. 31, s. 1.

Where assignment to be filed in certain districts and in Haliburton.

14.—(1) If the said notice is not published in the regular number of the *Ontario Gazette*, and of such newspaper as aforesaid, which shall respectively be issued first after five days from the execution of the assignment by the assignor, or if the assignment is not registered as aforesaid within five days from the execution thereof, the assignor shall be liable to a penalty of \$25 for each and every day which shall pass after the issue of the number of the newspaper in which the notice should have appeared until the same shall have been

Penalty for neglecting publication or registration.

published; and a like penalty for each and every day which shall pass after the expiration of five days from the execution of the assignment by the assignor until the same shall have been registered.

(2) The assignee shall be subject to a like penalty for each and every day which shall pass after the expiration of five days from the delivery of the assignment to him, or of five days after his assent thereto. The burden of proving the time of such delivery or assent shall be upon the assignee.

(3) Such penalties may be recovered summarily before a Judge of the High Court, or of the County Court of the county in which the assignment ought to be published or registered; one-half of the penalty shall go to the party suing, and the other half for the benefit of the estate of the assignor.

Liability of
sheriff.

(4) In case of an assignment to the sheriff, he shall not be liable for any of the penalties imposed in this section, unless he has been paid or tendered the cost of advertising and registering the assignment, nor shall he be compelled to act under the assignment until his costs in that behalf are paid or tendered to him. R. S. O. 1887, c. 124, s. 13.

Compelling
publication
and
registration.

15. In case the assignment is not registered, and notice thereof published, an application may be made by any one interested in the assignment to a Judge of the High Court, or of the County Court aforesaid, to compel the registration of the assignment and publication of such notice; and the Judge shall make his order in that behalf, and with or without costs, or upon the payment of costs by such person as he may in his discretion direct to pay the same. R. S. O. 1887, c. 124, s. 14.

Assignment
not invali-
dated by
omission to
publish, etc.

16. The omission to publish or register as aforesaid, or any irregularity in the publication or registration, shall not invalidate the assignment. R. S. O. 1887, c. 124, s. 15.

Assignee to
call meeting
of creditors

17. It shall be the duty of the assignee immediately to inform himself, by reference to the debtor and his records of account, of the names and residences of the debtor's creditors, and within five days from the date of assignment to convene a meeting of the creditors for the appointment of inspectors and the giving of directions with reference to the disposal of the estate, by mailing prepaid and registered to every creditor known to him, a circular calling a meeting of creditors to be held in his office or some other convenient place to be named in the notices, not later than twelve days after the mailing of such notice, and by advertisement in the *Ontario Gazette*; and all other meetings to be held shall be called in like manner. R. S. O. 1887, c. 124, s. 16.

Meeting of
creditors by
request of
majority
thereof.

18.—(1) In case of a request in writing signed by a majority of the creditors having claims duly proved of \$100 and upwards, computed according to the provisions of section 20 of

this Act, it shall be the duty of the assignee within two days after receiving such request, to call a meeting of the creditors at a time not later than twelve days after the assignee receives the request. In case of default the assignee shall be liable to a penalty of \$25 for every day after the expiration of the time limited for the calling of the meeting until the meeting is called.

(2) In case a sufficient number of creditors do not attend the meeting mentioned in section 17 of this Act, or fail to give directions with reference to the disposal of the estate, the Judge of the County Court may give all necessary directions in that behalf. R. S. O. 1887, c. 124, s. 17. Judge to give directions in case creditors do not attend.

19. At any meeting of creditors the creditors may vote in person, or by proxy authorized in writing, but no creditor whose vote is disputed shall be entitled to vote until he has filed with the assignee an affidavit in proof of his claim stating the amount and nature thereof. R. S. O. 1887, c. 124, s. 18. Voting at meeting.

20.—(1) Subject to the provisions of section 8, all questions discussed at meetings of creditors shall be decided by the majority of votes, and for such purpose the votes of creditors shall be calculated as follows: Scale of votes.

Forevery claim of or over \$100, and not exceeding \$200..	1 vote.
“ “ \$200 “ “ \$500..	2 votes.
“ “ \$500 “ “ \$1000..	3 votes.
“ additional \$1,000, or fraction thereof . . .	1 vote.

(2) No person shall be entitled to vote on a claim acquired after the assignment unless the entire claim is acquired, but this shall not apply to persons acquiring notes, bills or other securities upon which they are liable. Upon claims acquired after assignment.

(3) In case of a tie the assignee, or if there are two assignees, then the assignee nominated for that purpose by creditors, or by the Judge, if none has been nominated by the creditors, shall have a casting vote. Casting vote.

(4) Every creditor in his proof of claim shall state whether he holds any security for his claim or any part thereof; and if such security is on the estate of the debtor, or on the estate of a third party for whom such debtor is only secondarily liable, he shall put a specified value thereon and the assignee under the authority of the creditors may either consent to the right of the creditor to rank for the claim after deducting such valuation, or he may require from the creditor an assignment of the security at an advance of ten per cent. upon the specified value to be paid out of the estate as soon as the assignee has realized such security; and in such case the difference between the value at which the security is retained and the amount of the gross claim of the creditor shall be the amount for which he shall rank and vote in respect of the estate. Creditors to value securities.

(5) If a creditor holds a claim based upon negotiable instruments upon which the debtor is only indirectly or secondarily liable, and which is not mature or exigible, such creditor shall Right to re-value in certain cases.

be considered to hold security within the meaning of this section, and shall put a value on the liability of the party primarily liable thereon as being his security for the payment thereof; but after the maturity of such liability and its non-payment, he shall be entitled to amend and revalue his claim. R. S. O. 1887, c. 124, s. 19.

When creditor holding security fails to value same.

(6) In case a person claiming to be entitled to rank on the estate assigned holds security for his claim or any part thereof, of such a nature that he is required by this Act to value the same, and he fails to value such security, the Judge of the County Court of the county wherein the debtor at the time of making the assignment resided or carried on business, may, upon summary application by the assignee or by any other person interested in the debtor's estate, of which application three days' notice shall be given to such claimant, order that, unless a specified value shall be placed on such security and notified in writing to the assignee within a time to be limited by the order, such claimant shall, in respect of the claim, or the part thereof for which the security is held, in case the security is held for part only of the claim, be wholly barred of any right to share in the proceeds of such estate; and if a specified value is not placed on such security, and notified in writing to the assignee according to the exigency of the said order, or within such further time as the said Judge may be subsequent order allow, the said claim, or the said part, as the case may be, shall be wholly barred as against such estate but without prejudice to the liability of the debtor therefor. 59 V. c. 31, s. 3.

Proof of claim.

21.—(1) Every person claiming to be entitled to rank on the estate assigned shall furnish to the assignee particulars of his claim proved by affidavit and such vouchers as the nature of the case admits of.

Limiting time for proof of claim.

(2) In case a person claiming to be entitled to rank on the estate assigned, does not within a reasonable time after receiving notice of the assignment and of the name and address of the assignee, furnish to the assignee satisfactory proofs of his claim as provided by this and the preceding sections of this Act, the Judge of the County Court of the county wherein the debtor at the time of making the assignment resided or carried on business, may, upon a summary application by the assignee or by any other person interested in the debtor's estate (of which application at least three days' notice shall be given to the person alleged to have made default in proving a claim as aforesaid), order that unless the claim be proved to the satisfaction of the Judge within a time to be limited by the order, the person so making default shall no longer be deemed a creditor of the estate assigned, and shall be wholly barred of any right to share in the proceeds thereof; and if the claim is not so proved within the time so limited, or within such further time as the said Judge may by subsequent order allow,

the same shall be wholly barred, and the assignee shall be at liberty to distribute the proceeds of the estate as if no such claim existed, but without prejudice to the liability of the debtor therefor..

(3) The preceding subsection is not intended to interfere with the protection afforded to assignees, by section 38 of *The Trustee Act*. Not to interfere with Rev. Stat. c. 129.

(4) A person whose claim has not accrued due shall nevertheless be entitled to prove under the assignment and vote at meetings of creditors, but in ascertaining the amount of any such claim a deduction for interest shall be made for the time which has to run until the claim becomes due. R. S. O. 1887, c. 124, s. 20 (1-4). Creditor may prove claim not due.

22.—(1) At any time after the assignee receives from any person claiming to be entitled to rank on the estate, proof of his claim, notice of contestation of the claim may be served by the assignee upon the claimant. Within thirty days after the receipt of the notice, or such further time as a Judge of the County Court of the county in which the assignment is registered may on application allow, an action shall be brought by the claimant against the assignee to establish the claim, and a copy of the writ in the action or summons in case the action is brought in a Division Court shall be served on the assignee; and in default of such action being brought and writ or summons served within the time aforesaid, the claim to rank on the estate shall be forever barred. Contestation of claim.

(2) The notice by the assignee shall contain the name and place of business of one of the solicitors of the Supreme Court of Judicature for Ontario, upon whom service of the writ or summons may be made; and service upon such solicitor shall be deemed sufficient service of the writ. R. S. O. 1887, c. 124, s. 20 (5).

23.—(1) In case the assignee is satisfied with the proof adduced in support of a claim, but the debtor disputes the same, such debtor shall do so by notice in writing to the assignee, stating the grounds upon which he disputes the claim; and such notice shall be given within ten days of such debtor's being notified in writing by the assignee that he is satisfied with the proof adduced as aforesaid, and not afterwards unless by special leave of the said Judge. Procedure where assignee is satisfied with proof of claim and debtor desires to dispute same.

(2) If upon receiving such notice of dispute the assignee does not deem it proper to require the claimant to bring an action to establish his claim, he shall notify the debtor in writing of this fact, and the debtor may thereupon, and within ten days' of his receiving such notice, apply to the said Judge for an order requiring the assignee to serve a notice of contestation. The Judge shall only make such order if after notice to the assignee the Judge is of opinion that there are good grounds for contesting the claim. In case the debtor does not make an application as aforesaid the decision of the assignee shall as against him be final and conclusive.

(3) If upon the application the claimant consents in writing, the Judge may, in a summary manner, decide the question of the validity of the claim.

(4) If an action is brought by the claimant against the assignee the debtor may intervene at the trial, either personally or by counsel, for the purpose of calling and examining or cross-examining witnesses. 59 V. c. 31, s. 4.

Assets not to be removed out of the Province and moneys to be deposited in a bank.

24.—(1) No property or assets of an estate assigned under the provisions of this Act shall be removed out of the Province without the order of the Judge of the County Court of the county in which the assignment is registered, and the proceeds of the sale of any such property or assets, and all moneys received on account of any estate shall be deposited by the assignee in one of the incorporated banks within this Province, and shall not be withdrawn or removed without the order of such Judge, except in payment of dividends and other charges incidental to the winding up of the estate.

Penalty.

(2) Any assignee or other person acting in his stead or on his behalf violating the provisions of this section shall be liable to a penalty of \$500, which may be recovered summarily before a Judge of the High Court or before the Judge of the County Court of the county in which the assignment is required to be registered; and one-half of the said penalty shall go to the person suing therefor, and the other half shall belong to the said estate; but in default of payment of the said penalty and all costs which may be incurred in any action or proceeding for the recovery thereof, such assignee or other person may be imprisoned for any period not exceeding thirty days, and shall be disqualified from acting as assignee of any estate while such default continues. 52 V. c. 21, s. 2.

Application of section limited.

(3) This section shall not apply to any assignment executed before the 23rd day of March, 1889, or to any proceedings thereunder. 52 V. c. 21, s. 3.

Accounts to be kept accessible.

25. Upon the expiration of one month from the first meeting of creditors, or as soon as may be after the expiration of such period, and afterwards from time to time at intervals of not more than three months, the assignee shall prepare, and keep constantly accessible to the creditors, accounts and statements of his doings as such assignee, and of the position of the estate. R. S. O. 1887, c. 124, s. 21.

Set off.

26. The law of set-off shall apply to all claims made against the estate and also to all actions instituted by the assignee for the recovery of debts due to the assignor, in the same manner and to the same extent as if the assignor were plaintiff or defendant, as the case may be, except in so far as any claim for set-off shall be affected by the provisions respecting frauds or fraudulent preferences of this or any other Act. R. S. O. 1887, c. 124, s. 23.

Affidavits.

27. Any affidavit authorized, or required, under this Act may be sworn before any person authorized to administer

affidavits in the High Court, or before a Justice of the Peace, or, if sworn out of Ontario, before a Notary Public. R. S. O. 1887, c. 124, s. 24.

28. As large a dividend as can with safety be paid, shall be paid by every assignee under this Act within twelve months from the date of any assignment made thereunder, and earlier if required by the inspectors; and thereafter a further dividend shall be paid every six months, and more frequently if required by the inspectors until the estate is wound up and disposed of. 59 V. c. 31, s. 5.

Dividends when to be paid.

29. So soon as a dividend sheet is prepared, notice thereof shall be given by letter posted to each creditor, inclosing an abstract of receipts and disbursements, shewing what interest has been received by the assignee, for moneys in his hands, together with a copy of the dividend sheet, noting thereon the claims objected to, and stating whether any reservation has or has not been made therefor; and after the expiry of eight days from the day of mailing such notice, abstract and dividend sheet as aforesaid, dividends on all claims not objected to within that period shall be paid. R. S. O. 1887, c. 124, s. 22.

Notice of dividend sheet.

30.—(1) The assignee may, if he deems it advisable so to do, take the proceedings authorized by section 32 of *The Creditors' Relief Act* to be taken by a sheriff, and in that case sections 32 and 33 of the said Act shall apply to proceedings for the distribution of moneys and determination of claims arising under an assignment made under this Act, with the substitution of "assignee" for "sheriff" where it occurs in said section 32; and the substitution of "according to law" for "as directed by this Act," where these words occur in said section 32; but this section shall not be construed to relieve the assignee from mailing to each creditor the abstract and other information required by section 29 of this Act to be sent to creditors, so far as the same is not contained in the list sent by him under section 32 aforesaid.

Distributing moneys and determining claims as provided by Rev Stat. c. 78.

(2) The Judge of the County Court of the county wherein the debtor at the time of the assignment resided or carried on business shall be the Judge to whom applications under this section shall be made. 59 V. c. 31, s. 6.

31. The assignee shall receive such remuneration as shall be voted to him by the creditors at any meeting called for the purpose after the first dividend sheet has been prepared, or by the inspectors, in case of the creditors failing to provide therefor, subject to the review of the County Court of the county in which the assignment is registered or the Judge thereof, if complained of by the assignee or any of the creditors. R. S. O. 1887, c. 124, s. 11 (1).

Remuneration of assignee.

32. In case the remuneration of the assignee has not been fixed under the preceding subsection before the final dividend, the assignee may insert in the final dividend sheet, and retain

Where remuneration not fixed before the final dividend.

as his remuneration, a sum not exceeding five per cent. of the cash receipts, subject to review by the Court or Judge as hereinbefore provided; but no application by the assignee to review the said allowance shall be entertained, unless the question of his remuneration, previous to the preparation of the final dividend sheet has been brought before a meeting of creditors competent to decide the same. 59 V. c. 31, s. 8.

Remuneration
of inspectors.

33. No assignee shall make any payment or allowance to an inspector beyond his actual and necessary travelling expenses in and about his duties as inspector, except under the authority of a resolution of the creditors passed at a meeting regularly called, fixing the amount thereof, and in the notice calling the meeting the fixing of the remuneration of the inspectors shall be specially mentioned as one of the subjects to be brought before the meeting. No inspector shall be allowed more than four dollars a day besides actual travelling expenses, but may be allowed less. 59 V. c. 31, s. 7.

Examination
of assignor or
employees.

34. Where there has been an assignment for the benefit of creditors the assignee, or assignees, upon resolution passed by a majority vote of the creditors present or represented at a meeting of the creditors of the assignor regularly called, or upon the written request or resolution of the majority of the inspectors of the estate, may without an order examine the assignor or any person who is or has been an agent, clerk, servant, officer or employee of any kind of the assignor, upon oath before a master or local master or a special examiner of the Supreme Court of Judicature, or before a local registrar or deputy clerk of the crown of the High Court, or before the Judge of the County Court of the county within which such assignor resides, or before any official referee, or may by the order of the Court or a Judge examine the assignor on oath before any other person to be specially named in such order, touching the estate and effects of the assignor, and as to the property and means he had when the earliest of the debts or liabilities of the assignor existing at the date of the assignment was incurred, and as to the property and means he still has of discharging his debts and liabilities, and as to the disposal he has made of any property since contracting such debt or incurring such liability and as to any and what debts are owing to him. 58 V. c. 23, s. 6; 59 V. c. 31, s. 9.

Procedure
upon exami-
nation of an
assignor.

35. The rules and procedure from time to time in force in the High Court of Justice for the examination of judgment debtors shall, as far as may be, apply to an examination under this Act of an assignor in all respects as if the assignor were a judgment debtor. 58 V. c. 23, s. 11.

When as-
signor does
not attend or
refuses to
answer ques-
tions.

36. In case such assignor does not attend as required by the said appointment, or appointment and order, as the case may be, and does not allege a sufficient excuse for not attending, or if attending, refuses to disclose his property or his transactions respecting the same, or does not make satisfactory

answers respecting the same, or if it appears from such examination that such assignor has concealed or made away with his property in order to defeat or defraud his creditors or any of them, the Court or Judge may order the assignor to be committed to the common gaol of the county in which he resides, for any term not exceeding twelve months. 58 V. c. 23, s. 10.

37.—(1) Any person liable to be examined under section 34 may be served with an appointment signed by the Judge or officer, or a copy thereof, and where the examination is to take place under an order, also with a copy of the order; such service to be made at least 48 hours before the time appointed for the examination; and the person to be examined is to be paid the same fees as a witness. 58 V. c. 23, s. 8.

Service of appointment.

(2) The examination shall be conducted in the same manner as in the case of an oral examination of an opposite party. 58 V. c. 23, s. 9.

Conduct of examination.

38. Any person liable to be examined under section 34 may be compelled to attend and testify and to produce books and documents, in the same manner and subject to the same rules of examination, and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined, as in the case of a witness in an action in the High Court of Justice. 58 V. c. 23, s. 7.

Compelling attendance and production of books

39.—(1) In case any person has or is believed or suspected to have in his possession or power any book, document, or paper of any kind relating in whole or in part to the debtor, his dealings or property, such person may, upon resolution passed by a majority vote of the creditors present or represented at a regularly called meeting of the creditors of the assignor exclusive of such person (if he is a creditor) or upon the written request or resolution of the majority of the inspectors of the estate, be required by the assignee to produce such statement or statements for the information of such assignee.

Calling upon persons having information as to assignor's affairs to give evidence and produce documents, etc.

(2) In case such person fails to produce the said book, document or other paper within four days of his being served with a copy of the said resolution and a request of the assignee in that behalf, or in case the assignee or the majority of the inspectors is or are not satisfied that full production has been made, the assignee may without an order examine the said person before any of the officers mentioned in section 34 of this Act touching any book, document or other paper which he is supposed to have received.

(3) Any such person may be compelled to attend and testify, and to produce upon his examination any book, document or other paper which under this section he is liable to produce in the same manner and subject to the same rules of examination and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined as in the case of a witness in an action in the High Court of Justice. 59 V. c. 31, s. 10.

CHAPTER 148.

An Act respecting Mortgages and Sales of Personal Property.

SHORT TITLE, s. 1.

CHATTEL MORTGAGES WHERE POSSESSION OF GOODS UNCHANGED :
Affidavits as to indebtedness, ss. 2, 3.

To be registered or void as against creditors, ss. 2, 5.

To operate from execution, s. 4.

SALES OF GOODS WHERE POSSESSION UNCHANGED :

To be registered or void as against creditors, s. 6.

MORTGAGES OF GOODS TO SECURE ADVANCES OR SURETIES, ss. 7, 8.

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AFFIDAVIT OF BONA FIDES MAY BE MADE BY ONE OF TWO OR MORE MORTGAGEES, etc., s. 10.

CONTRACTS TO GIVE MORTGAGES OR MAKE SALES, ss. 11-14.

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WHEN MORTGAGED GOODS REMOVED TO ANOTHER COUNTY OR DISTRICT, s. 17.

RENEWAL OF MORTGAGES, ss. 18-23.

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DISCHARGE OF MORTGAGES, ss. 25-28.

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MISCELLANEOUS :

Registration where time expires on a day on which offices are closed, s. 30.

Authority to take or renew mortgages may be general, s. 31.

Description in instrument, s. 32.

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Act not to apply to vessels, s. 34.

Where new county formed, s. 35.

Inspection of books, s. 36.

Act to extend to goods not ready for delivery, s. 37.

"Creditor," meaning of, s. 38.

"Actual and continued change of possession," meaning of, s. 39.

Taking possession not to validate, s. 40.

AGREEMENTS WHERE POSSESSION PASSES WITHOUT OWNERSHIP, s. 41.

STATISTICAL RETURNS, s. 42.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Short title.

1. This Act may be cited as "*The Bills of Sale and Chattel Mortgage Act.*" 57 V. c. 37, s. 1.

EFFECT OF REGISTERING OR OMITTING TO REGISTER.

Mortgages of goods not attended with change of possession, to be registered.

2. Every mortgage, or conveyance intended to operate as a mortgage of goods and chattels, in Ontario, which is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged, or a true copy thereof, shall, within five days from the execution thereof, except as hereinafter otherwise provided, be registered as hereinafter provided, together with the affidavit of an attesting witness thereto, of the due execution of such mortgage or

conveyance, or of the due execution of the mortgage or conveyance of which the copy filed purports to be a copy, which affidavit shall also contain the date of the execution of the mortgage, and also with the affidavit of the mortgagee or of one of several mortgagees, or of the agent of the mortgagee or mortgagees, if such agent is aware of all the circumstances connected therewith and is properly authorized in writing to take such mortgage, in which case the affidavit of the agent shall state that he is aware of all the circumstances connected therewith, and a copy of such authority or the authority itself shall be registered therewith. 57 V. c. 37, s. 2.

3. Such last mentioned affidavit, whether of the mortgagee or his agent, or one of several mortgagees or the agent of the mortgagee or mortgagees shall state in addition to what is required by section 2 of this Act that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that the mortgage was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor, or of preventing the creditors of such mortgagor from obtaining payment of any claim against him. 57 V. c. 37, s. 3.

Contents of affidavit of bona fides.

4. Every such mortgage or conveyance shall operate and take effect upon, from and after the day and time of the execution thereof. 57 V. c. 37, s. 4.

When mortgage to take effect.

5. In case such mortgage or conveyance and affidavits are not registered as by this Act provided, the mortgage or conveyance shall be absolutely null and void as against creditors of the mortgagor, and against subsequent purchasers or mortgagees in good faith for valuable consideration. 57 V. c. 37, s. 5.

Effect of non-registration.

6. Every sale of goods and chattels, not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold, shall be in writing, and such writing shall be a conveyance under the provisions of this Act, and shall be accompanied by an affidavit of an attesting witness thereto of the due execution thereof, and an affidavit of the bargainee, or his agent (if such agent is aware of all the circumstances connected therewith) duly authorized in writing to take the conveyance (a copy of which authority or the authority itself shall be attached to and filed with the conveyance) that the sale is *bona fide* and for good consideration, as set forth in the said conveyance, and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor, and the conveyance and affidavits shall be registered, as by this Act provided, within five days from the executing thereof, otherwise the sale shall be absolutely void as against the credi-

Sale of goods not attended with delivery to be registered.

tors of the bargainor and as against subsequent purchasers or mortgagees in good faith. 57 V. c. 37, s. 6.

Mortgages to secure future advances to be registered.

7. In case of an agreement in writing for future advances for the purpose of enabling the borrower to enter into and carry on business with such advances, the time of repayment thereof not being longer than one year from the making of the agreement, and in case of a mortgage of goods and chattels for securing the mortgagee repayment of such advances, the time of repayment thereof not being longer than one year from the making of the agreement, and in case the mortgage is executed in good faith, and sets forth fully by recital or otherwise, the terms, nature and effect of the agreement, and in case the mortgage is accompanied by the affidavit of an attesting witness thereto of the due execution thereof, and by the affidavit of the mortgagee, or in case the agreement has been entered into and the mortgage taken by an agent duly authorized in writing to make such agreement and to take such mortgage and if the agent is aware of the circumstances connected therewith, then, if accompanied by the affidavit of such agent, such affidavit, whether of the mortgagee or his agent, stating that the mortgage truly sets forth the agreement entered into between the parties thereto and truly states the extent of the liability intended to be created by the agreement and covered by such mortgage, and that the mortgage is executed in good faith, and for the express purpose of securing the mortgagee repayment of his advances, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor, nor to prevent such creditors from recovering any claims which they may have against the mortgagor, and in case the mortgage is registered as by this Act provided, the same shall be as valid and binding as mortgages mentioned in the preceding sections of this Act. 57 V. c. 37, s. 7.

Mortgages given to secure indorsers and sureties to be registered.

8. In case of a mortgage of goods and chattels for securing the mortgagee against the indorsement of any bills or promissory notes or any other liability by him incurred for the mortgagor, not extending for a longer period than one year from the date of such mortgage, and in case the mortgage is executed in good faith, and sets forth fully by recital or otherwise, the terms, nature and effect of the agreement, and the amount of liability intended to be created, and in case such mortgage is accompanied by the affidavit of an attesting witness thereto of the due execution thereof, and by the affidavit of the mortgagee, or in case the mortgage has been taken by an agent duly authorized in writing to take such mortgage and if the agent is aware of the circumstances connected therewith, then, if accompanied by the affidavit of such agent, such affidavit, whether of the mortgagee or his agent, stating that the mortgage truly states the extent of the liability intended to be created and covered by such mortgage, and that such mortgage is executed in good faith and for the express purpose of secur-

ing the mortgagee against the payment of the amount of his liability for the mortgagor, as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor, nor to prevent such creditors from recovering any claims which they may have against such mortgagor, and in case such mortgage is registered as by this Act provided, the same shall be as valid and binding as mortgages mentioned in the preceding sections of this Act. 57 V. c. 37, s. 8.

9. The authority in writing referred to in the two next preceding sections, or a copy of such authority shall be attached to and filed with the mortgage. 57 V. c. 37, s. 9.

Agents' authority to be attached to mortgage.

10. The affidavit of *bona fides* required by sections 6, 7 and 8 may be made by one of two or more bargainees or mortgagees and if made by an agent as herein provided the same shall state that he is aware of all the circumstances connected with the sale or mortgage, as the case may be. 57 V. c. 37, s. 10.

Affidavits of *bona fides*.

CONTRACTS TO GIVE MORTGAGES, ETC.

11. Every covenant, promise or agreement entered into on or after the 7th day of April, 1896, to make, execute or give a mortgage or conveyance intended to operate as a mortgage of goods and chattels in whatever words the same may be expressed shall be deemed to be a mortgage or conveyance within the meaning of this Act, and unless accompanied by an immediate delivery and an actual and continued change of possession of the goods and chattels mortgaged, the same or a true copy thereof together with affidavits of execution and *bona fides* shall be registered within the time and in the manner hereby prescribed in respect of bills of sale and mortgages, otherwise such covenant, promise or agreement shall be absolutely null and void as against creditors of the mortgagor and against subsequent purchasers or mortgagees in good faith for valuable consideration. 59 V. c. 34, s. 1.

Contract to give a chattel mortgage to be deemed a mortgage.

12. Every covenant, promise or agreement to make a sale of goods and chattels, in whatever words the same may be expressed, shall be deemed to be a sale of goods and chattels within the meaning of this Act, and unless accompanied by an immediate delivery, and followed by an actual and continued change of possession of the said goods and chattels shall be in writing, and such writing accompanied by affidavits of execution and *bona fides* shall be registered within the time and in the manner prescribed as respects bills of sale by this Act, otherwise the said covenant, promise or agreement shall be absolutely void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. 59 V. c. 34, s. 2.

Contract to make a sale to be deemed a sale.

Contracts
made prior to
7th April,
1896.

13. In the case of covenants, promises or agreements made before the 7th day of April, 1896, the provisions of this Act with regard to registration may be deemed to be complied with if such registration was effected within three calendar months after the said date and subject thereto this Act shall extend and apply to every such covenant, promise and agreement made before as well as after the said date. 59 V. c. 34, s. 3.

Verbal
agreements.

14. Every verbal agreement to the effect mentioned in the three next preceding sections and not reduced to writing shall be absolutely null and void to all intents and purposes whatever, as against creditors or subsequent purchasers or mortgagees mentioned in such sections. 59 V. c. 34, s. 4.

PLACE OF REGISTRATION.

Instruments
to be register-
ed in the
county court
office.

15.—(1) The instruments mentioned in the preceding sections shall in counties be registered in the office of the Clerk of the County Court of the county or union of counties where the property so mortgaged or sold is at the time of the execution of such instrument; and every such Clerk shall file all such instruments presented to him for that purpose, and shall indorse thereon the time of receiving the same in his office. 57 V. c. 37, s. 11.

Registration
in Algoma,
Thunder Bay,
Nipissing.

(2) Where the goods and chattels mortgaged or sold are situate within the Districts of Algoma, Thunder Bay or Nipissing, the said instruments shall be filed within ten days from the execution thereof in the office of the District Court Clerk in the district in which the goods are situate.

Registration
in Parry
Sound, Mus-
koka and
Rainy River.

(3) Where the goods or chattels mortgaged or sold are situate within the Districts of Parry Sound, Muskoka or Rainy River, the said instruments shall be filed within ten days from the execution thereof in the office of the Clerk of the First Division Court of the district in which the goods are situate.

Registration
in Haliburton.

(4) Where the goods and chattels mortgaged or sold are situate within the Provisional County of Haliburton, the said instruments shall be filed within seven days from the execution thereof in the office of the Clerk of the First Division Court of the said provisional county. 59 V. c. 32, s. 1.

Registration
in Manitoulin.

(5) Where the goods and chattels mortgaged or sold are situate within the District of Manitoulin the said instruments shall be filed within ten days from the execution thereof in the office of the Deputy Clerk for Manitoulin.

Instruments
filed with De-
puty Clerk
prior to 4th
May, 1891.

(6) Any bill of sale or chattel mortgage filed with the said Deputy Clerk for Manitoulin prior to the 4th day of May, 1891, shall be as valid as if the same had been filed with the Clerk of the County Court.

(7) Nothing in the two next preceding subsections contained shall be construed to affect any action or other proceeding pending on the 4th day of May, 1891, in which the validity of any instrument required to be filed under chapter 125 of the Revised Statutes of Ontario, 1887, and amending Acts is called in question by reason of the place of filing such instrument. 57 V. c. 37, s. 28.

Proceedings pending on 4th May, 1891 not affected.

(8) "Clerk of the County Court" or "Clerk" when used in this Act shall unless where inconsistent with the context, include the officers mentioned in this section. 60 V. c. 3, s. 3.

Meaning of "Clerk of the County Court."

16. The said Clerks respectively shall number every such instrument or copy filed in their offices, and shall enter in alphabetical order in books to be provided by them, the names of all the parties to such instruments, with the numbers indorsed thereon opposite to each name, and such entry shall be repeated alphabetically under the name of every party thereto. 57 V. c. 37, s. 12.

Manner of registration.

17. In the event of the permanent removal of goods and chattels mortgaged as aforesaid from the county or union of counties or territorial district in which the goods and chattels were at the time of the execution of the mortgage, to another county or union of counties or territorial district, or to the said provisional county of Haliburton, or from the said provisional county to another county or union of counties or territorial district, before the payment and discharge of the mortgage, a certified copy of the mortgage, under the hand of the Clerk in whose office it was first registered, and under the seal of the Court, and of the affidavits and documents and instruments relating thereto filed in such office, shall be filed with the Clerk of the County Court of the county or union of counties to which the goods and chattels are removed, or in the proper office as mentioned in section 15, in case such goods and chattels are removed to a territorial district or to the said provisional county, within two months from such removal, otherwise the said goods and chattels shall be liable to seizure and sale under execution, and in such case the mortgage shall be null and void as against creditors of the mortgagor and against subsequent purchasers and mortgagees in good faith for valuable consideration, as if never executed. 57 V. c. 37, s. 13; 60 V. c. 3, s. 3.

Procedure when mortgaged goods are removed.

RENEWAL OF MORTGAGES.

18. Subject to the provisions hereinafter contained as to mortgages to companies, every mortgage, or copy thereof, filed in pursuance of this Act shall cease to be valid, as against the creditors of the persons making the same and against subsequent purchasers and mortgagees in good faith for valuable consideration, after the expiration of one year from the day of the filing thereof, unless, within thirty days next preceding

Statement of amount due to be filed yearly.

the expiration of the said term of one year, a statement exhibiting the interest of the mortgagee, his executors, administrators or other assigns in the property claimed by virtue thereof, and shewing the amount still due for principal and interest thereon, and shewing all payments made on account thereof, is filed in the office of the Clerk of the County Court of the county or union of counties wherein the goods and chattels are then situate, with an affidavit of the mortgagee, or one of several mortgagees, or of the assignee or one of several assignees, or of the agent of the mortgagee or assignee, or mortgagees or assignees (as the case may be), duly authorized in writing, for that purpose (a copy of which authority or the authority itself shall be filed therewith), that the statement is true, and that the mortgage has not been kept on foot for any fraudulent purpose. 57 V. c. 37, s. 14.

Form of statement and affidavit.
Proviso.

19. The statement and affidavit mentioned in the next preceding section may be in the form given in the Schedule B to this Act, or to the like effect: Provided, that if any *bona fide* error or mistake shall be made in the said statement, either by the omission to give any credit or credits or by any miscalculation in the computation of interest or otherwise, the said statement and the mortgage therein referred to shall not be invalidated, provided that the mortgagee, his executors, administrators or other assigns shall, within two weeks after the discovery of any such error or mistake, file an amended statement and affidavit in the form given in Schedule B or to the like effect, and referring to the former statement and clearly pointing out the error or mistake therein and correcting the same; but if, prior to the filing of such amended statement and affidavit, any creditor or purchaser or mortgagee in good faith for valuable consideration shall have made any *bona fide* advance of money or given any valuable consideration to the mortgagor, or shall have incurred any costs in proceedings taken on the faith of the amount due on any mortgage being as stated in the renewal statement and affidavit filed, then the said mortgage as to the amount so advanced or the valuable consideration given or costs incurred as aforesaid by such creditor, purchaser or mortgagee, shall, as against such creditor, purchaser or mortgagee, stand good only for the amount mentioned in the renewal statement and affidavit first filed. 57 V. c. 37, s. 15.

Manner of filing and entering affidavit and statement.

20. The statement and affidavit shall be deemed one instrument, and be filed and entered in like manner as the instruments in this Act mentioned are, by section 16, required to be filed and entered, and the like fees shall be payable for filing and entering the same as are now payable for filing and entering such instruments. 57 V. c. 37, s. 16.

Statement to be filed annually.

21. Another statement in accordance with the provisions of section 18 of this Act, duly verified as required by that section, shall be filed in the office of the Clerk of the County Court of

the county wherein the goods and chattels described in the mortgage are then situate, within thirty days next preceeding the expiration of the term of one year from the day of the filing of the statement required by the said section 18, or such mortgage, or copy thereof, shall cease to be valid as against the creditors of the persons making the same, and as against purchasers and mortgagees in good faith for valuable consideration, and so on from year to year, that is to say, another statement as aforesaid, duly verified, shall be filed within thirty days next preceeding the expiration of one year from the day of the filing of the former statement, or such mortgage or copy thereof shall cease to be valid as aforesaid. 57 V. c. 37, s. 17.

22. The affidavit required by section 18 may be made by any next of kin, executor or administrator of any deceased mortgagee, or by any assignee claiming by or through any mortgagee, or any next of kin, executor or administrator of any such assignee; but if the affidavit is made by any assignee, next of kin, executor or administrator of any such assignee, the assignment or the several assignments through which the assignee claims shall be filed in the proper office of the county in which the goods are, at or before the time of such refileing by the assignee, next of kin, executor or administrator of the assignee; Provided that an assignment for the benefit of creditors under chapter 147 of the Revised Statutes of Ontario, 1897, or any other Act of the Province of Ontario or the Dominion of Canada relating to assignments for the benefit of creditors or to insolvency or bankruptcy, need not be filed as aforesaid, provided such assignment be referred to in such statement, and notice thereof (when required), shall have been given in manner required by law. 57 V. c. 37, s. 18.

By whom affidavits on renewals may be made.

Proviso.

MORTGAGES TO SECURE BONDS, ETC., OF CORPORATIONS.

23.—(1) In the case of a mortgage or conveyance of goods and chattels of any company incorporated by or under any Imperial Act or charter, or by or under any Act or charter of the Dominion of Canada, or by or under any Act or charter of the Province of Ontario, made to a bondholder or bondholders, or to a trustee or trustees, for the purpose of securing the bonds or debentures of such company, instead of the affidavit of *bona fides* required by the sections 2 and 3 of this Act, it shall be sufficient for the purposes of this Act if an affidavit be filed as thereby required, made by the mortgagee or one of the mortgagees, to the effect that the said mortgage or conveyance was executed in good faith and for the express purpose of securing the payment of the bonds or debentures referred to therein, and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagors, or of preventing the creditors of such mortgagors from obtaining payment of any claim against them.

Affidavits of *bona fides* where mortgage given by company to secure bonds or debentures.

Time for filing mortgage where head office of company not in Ontario.

(2) In the case of any such conveyance or mortgage made by an incorporated company, the head office whereof is not within the Province of Ontario, such mortgage or conveyance may be filed within thirty days instead of five days, as provided in section 2 of this Act, and the same shall be of the like force, effect and priority as if the same had been filed within such five days.

Renewal of mortgages.

(3) Any such mortgage may be renewed in the manner and with the effect provided by section 18 and subsequent sections of this Act upon the filing of a statement by the mortgagee or one of the mortgagees exhibiting the interest of the mortgagee or mortgagees in the property claimed by virtue of the said mortgage, and showing the amount of the bond or debenture debt which the same was made to secure, and showing all payments on account thereof which, to the best of the information and belief of the person making such statement, have been made, or of which he is aware or has been informed, together with an affidavit of the person making such statement, that the statement is true to the best of his knowledge, information and belief, and that the mortgage has not been kept on foot for any fraudulent purpose, and such statement shall be filed instead of the statement required by said section 18 of this Act.

Affidavits and statements on behalf of companies.

(4) If any mortgage as aforesaid be made to an incorporated company, the several affidavits and statements herein mentioned may be made by the president, vice-president, manager or assistant manager of such mortgagee company, or any other officer of the company authorized for such purpose. 57 V. c. 37, s. 19.

Renewal of mortgages given to secure debentures of companies.

(5) Where such mortgage or conveyance is made as a security for debentures and the by-law authorizing the issue of the debentures, as a security for which the mortgage or conveyance was made, or a copy thereof, certified under the hand of the president or vice-president and secretary of the company and verified by an affidavit of the secretary thereto attached or endorsed thereon, and having the corporate seal attached thereto, is registered with the mortgage or conveyance, it shall not be necessary to renew the said mortgage or conveyance, but the same shall in such case continue to be as valid as if the same had been duly renewed as in this Act provided.

(6) The preceding subsection shall apply to every such mortgage or conveyance made and registered after the 5th day of May, 1894, but nothing herein contained shall affect any accrued rights or any litigation pending on the 13th day of April, 1897. 60 V. c. 14, s. 86.

PROOF OF REGISTRATION.

The clerk's certificate to be evidence of registration.

24. A copy of any original instrument, or of a copy thereof so filed as aforesaid, including any statement made in pursuance of this Act, certified by the Clerk in whose office the same has been filed under the seal of the Court, shall be re-

ceived in evidence in all Courts, but only of the fact that the instruments or copy and statement were received and filed according to the indorsement of the Clerk thereon, and of no other fact; and in all cases the original endorsement by the Clerk, made in pursuance of this Act, upon any such instrument or copy, shall be received in evidence only of the fact stated in the endorsement. 57 V. c. 37, s. 20.

DISCHARGE OF MORTGAGES.

25. Where any mortgage of goods and chattels is registered under the provisions of this Act, such mortgage may be discharged by the filing, in the office in which the same is registered, of a certificate signed by the mortgagee, his executors or administrators, in the form given in the Schedule A hereto, or to the like effect. 57 V. c. 37, s. 21.

Certificates of discharge of chattel mortgages.

26. The officer with whom the chattel mortgage is filed, upon receiving such certificate, duly proved by the affidavit of a subscribing witness, shall, at each place where the number of the mortgage has been entered, with the name of any of the parties thereto, in the book kept by him under section 16 of this Act, or wherever otherwise in the said book the said mortgage has been entered, write the words "Discharged by Certificate Number (*stating the number of the certificate*)," and to the said entry the officer shall affix his name, and he shall also indorse the fact of the discharge upon the instrument discharged, and shall affix his name to the indorsement. 57 V. c. 37, s. 22.

Entering certificates of discharge.

27. Where a mortgage has been renewed under section 18 of this Act, the indorsement or entries required by the preceding section to be made need only be made upon the statement and affidavit filed on the last renewal, and at the entries of the statement and affidavit in the said book. 57 V. c. 37, s. 23.

Entries of renewal.

28. In case a registered chattel mortgage has been assigned the assignment shall, upon proof by the affidavit of a subscribing witness, be numbered and entered in the alphabetical chattel mortgage book, in the same manner as a chattel mortgage, and the proceedings authorized by the next preceding three sections of this Act, may and shall be had, upon a certificate of the assignee, proved in manner aforesaid. 57 V. c. 37, s. 24.

Entry signment of mortgages.

FEEs.

29. For services under this Act the Clerks aforesaid shall be entitled to receive the following fees:

1. For filing each instrument and affidavit, and entering the same in a book as aforesaid, fifty cents.

2. For filing an assignment of any instrument, and making all proper indorsements in connection therewith, twenty-five cents.
3. For filing a certificate of discharge of any instrument, and making all proper entries and indorsements connected therewith, twenty-five cents.
4. For a general search, twenty-five cents.
5. For production and inspection of any instrument filed under this Act, ten cents.
6. For copies of any document with certificate prepared, filed under this Act, ten cents for every hundred words.
7. For extracts, whether made by the person who made the search, or by the officer, ten cents for every hundred words. 57 V. c. 37, s. 29.

MISCELLANEOUS PROVISIONS.

Registration where time limited expires on a day on which office is closed.

30. Where, under any of the provisions of this Act, the time for registering or filing any mortgage, bill of sale, instrument, document, affidavit, or other paper expires on a Sunday or other day on which the office in which the registering or filing is to be made or done is closed, and by reason thereof the registering or filing cannot be made or done on that day, the registering or filing shall, so far as regards the time of doing or making the same, be held to be duly done or made if done or made on the day on which the office shall next be open. 57 V. c. 37, s. 30.

General authority to take or renew mortgages.

31. An authority for the purpose of taking or renewing a mortgage or conveyance under the provisions of this Act may be a general one to take and renew all or any mortgages or conveyances to the mortgagee or bargainee. 57 V. c. 37, s. 31.

Manner of describing property in mortgages, etc.

32. All the instruments mentioned in this Act, whether for the sale or mortgage of goods and chattels, shall contain such sufficient and full description thereof that the same may be thereby readily and easily known and distinguished. 57 V. c. 37, s. 32.

Who to administer the affidavits.

33. All affidavits and affirmations required by this Act may be taken and administered by any Judge, Notary Public, or a Commissioner or other person in or out of the Province authorized to take affidavits in and for the High Court or by a Justice of the Peace; and the sum of twenty cents shall be payable for every oath thus administered. 57 V. c. 37, s. 33.

Act not to apply to mortgages of vessels registered.

34. This Act shall not apply to mortgages of vessels registered under the provisions of any Act in that behalf. 57 V. c. 37, s. 34.

35. All chattel mortgages relating to property within any township, city, town, or incorporated village forming part of a new county, at the date the proclamation forming the new county takes effect, shall, until their renewal becomes necessary to maintain their force against creditors, subsequent purchasers or mortgagees in good faith, continue to be as valid and effectual in all respects as they would have been if the new county had not been formed, but in the event of a renewal of any such chattel mortgage after the date the proclamation takes effect, the renewal shall be filed in the proper office in that behalf in the new county as if the mortgage had originally been filed therein, together with a certified copy under the hand of the Clerk and seal of the County Court, and no chattel mortgage in force at the said date shall lose its priority by reason of its not being filed in the new county prior to its renewal. 57 V. c. 37, s. 35.

Mortgages where new county is constituted.

36. Every person shall have access to and be entitled to inspect the several books of the County Courts, containing records or entries of the chattel mortgages and bills of sale filed; and no person desiring such access or inspection shall be required, as a condition to his right thereto, to furnish the names of the parties in respect of whom such access or inspection is sought; and all Clerks of the County Courts of the Province shall respectively, upon demand or request, produce for inspection any chattel mortgage, or bill of sale, filed in their respective offices, or of which records or entries are, by law, required to be kept in such several books of the County Courts. 57 V. c. 37, s. 36.

Inspection of books in County Court office.

37. The provisions of this Act shall extend to mortgages and sales of goods and chattels, notwithstanding that such goods and chattels may not be the property of, or may not be in the possession, custody or control of the mortgagor or bargainor or any one on his behalf at the time of the making of such mortgage or sale, and notwithstanding that such goods or chattels may be intended to be delivered at some future time, or that the same may not at the time of the making of said mortgage or sale be actually procured or provided, or fit or ready for delivery, and notwithstanding that some act may be required for the making or completing of such goods and chattels, or rendering the same fit for delivery. 57 V. c. 37, s. 37.

Mortgage, etc. of goods not in possession of mortgagor.

38. In the application of this Act the word "creditors" where it occurs, shall extend to creditors of the mortgagor or bargainor suing on behalf of themselves and other creditors, and to any assignee in insolvency of the mortgagor, and to an assignee for the general benefit of creditors, within the meaning of *The Act respecting Assignments and Preferences by Insolvent Persons*, as well as to creditors having executions against the goods and chattels of the mortgagor or bargainor in the hands of the Sheriff or other officer. 57 V. c. 37, s. 38; 60 V. c. 3, s. 3.

"Creditors," meaning of.

Rev. Stat. c. 147.

"Actual and continued change of possession," meaning of.

39. The "actual and continued change of possession" mentioned in this Act shall be taken to be such change of possession as is open, and reasonably sufficient to afford public notice thereof. 57 V. c. 37, s. 39.

Subsequent possession not to validate sale otherwise void.

40. A mortgage or sale declared by this Act to be void or which, under the provisions of section 18 has ceased to be valid, as against creditors and subsequent purchasers or mortgagees, shall not by the subsequent taking of possession of the things mortgaged or sold by or on behalf of the mortgagee or bargainee be thereby made valid as against persons who become creditors, or purchasers, or mortgagees before such taking of possession. 57 V. c. 37, s. 40; 60 V. c. 3, s. 3.

AGREEMENTS WHERE POSSESSION PASSES WITHOUT OWNERSHIP.

Agreement on sale that property is not to pass until payment void unless filed, etc.

41.—(1) In case of an agreement for the sale or transfer of merchandise of any kind to a trader or other person for the purpose of resale by him in the course of business, the possession to pass to such trader or other person, but not the absolute ownership until certain payments are made or other considerations satisfied, any such provision as to ownership shall as against creditors, mortgagees or purchasers be void, and the sale or transfer shall be deemed to have been absolute, unless

(a) The agreement is in writing, signed by the parties to the agreement or their agents, and

Where to be filed in counties.

(b) Unless such writing or a duplicate or copy verified by oath is filed in the office of the County Court Clerk of the county or union of counties or in the proper office in a district in which the goods are situate at the time of making the agreement, and also in the office of the County Court Clerk of the county or union of counties or in the proper office in a district in which such trader or other person resides at the time of making the agreement, such filing to be within five days of the delivery of possession of any of the goods under the agreement. 57 V. c. 37, s. 41 (1); 58 V. c. 24, s. 2.

Where to be filed in territorial districts.

(2) In the territorial districts of Muskoka, Nipissing, Algoma, Thunder Bay and Rainy River the agreement shall be filed in the office of the Clerk of the Peace in the district, and in the districts of Parry Sound and Manitoulin in the office of the registrar of deeds for the district; Provided that if a Clerk of the Peace shall be appointed for the district of Parry Sound or the district of Manitoulin then any agreement requiring thereafter to be filed in such district shall be filed in the office of such Clerk of the Peace.

Agreement not to affect ordinary purchases.

(3) Such an agreement, though signed and filed, shall not affect purchases from the trader or person aforesaid in the usual course of his business.

(4) The provisions of this and the four next preceding sections of this Act shall not affect the case of manufactured goods and chattels which at the time possession is given have the name and address of the manufacturer, bailor or vendor of the same painted, printed, stamped or engraved thereon or otherwise plainly attached thereto, nor any goods or chattels where the receipt-note, hire receipt, order or other instrument is filed and for which cases respectively provision is made by *The Act respecting Conditional Sales of Chattels*. 57 V. c. 37, s. 41 (2-4).

Sections 37-41 not to affect sales of certain marked goods.

Rev. Stat. c. 149.

STATISTICAL RETURNS.

42.—(1) Every Clerk with whom instruments are required to be registered under the provisions of this Act, shall on or before the 15th day of January in each year, transmit to the Minister of Agriculture returns which shall set out:

Returns of chattel mortgages, etc., to be made by clerks.

(a) The number of chattel mortgages and renewals, the number of discharges, and the number of assignments for the benefit of creditors on record and undischarged in the office of such Clerk on the 1st day of January, in the year preceding that in which the return is made ;

(b) The number of chattel mortgages and renewals, the number of discharges, and the number of assignments for the benefit of creditors registered in such office during the year following the said 1st day of January, and

(c) The number of chattel mortgages and renewals, the number of discharges, and the number of assignments for the benefit of creditors on record and undischarged in the said office on the 31st day of December in said year.

(2) The returns shall not include instruments which have lapsed by reason of non-renewal.

(3) The chattel mortgages and renewals and discharges, and assignments for the benefit of creditors in the said returns shall be classified according to the several occupations or callings of the vendors or mortgagors or assignors as stated in the instruments, and shall show the aggregate sums purporting to be secured thereby respectively.

(4) The returns shall, where practicable, distinguish mortgages to secure future indorsations or future advances from mortgages to secure an existing debt or a present advance. 53 V. c. 12, s. 7.

SCHEDULE A.

(Section 25.)

FORM OF DISCHARGE OF MORTGAGE.

To the Clerk of the Court of the of
 I, A. B., of do certify that has satisfied all money
 due on, or to grow due on a certain chattel mortgage made by
 to , which mortgage bears date the day of A.D.
 , and was registered (or in case the mortgage has been renewed was
 re-registered), in the office of the Clerk of the Court of the
 of , on the day of A.D. , as No. (here mention
 the day and date of registration of each assignment thereof, and the names
 of the parties, or mention that such mortgage has not been assigned, as the
 fact may be); and that I am the person entitled by law to receive the
 money, and that such mortgage is therefore discharged.

Witness my hand, this day of A.D.
 Signature of witness, and state residence }
 and occupation. }

A.B.
 57 V. c. 37, Sched. A.

SCHEDULE B.

(Section 19.)

Statement exhibiting the interest of C. D. in the property mentioned
 in a Chattel Mortgage dated the day of 18 ,
 made between A. B., of of the one part, and C. D., of
 of the other part, and filed in the office of the Clerk of the Court
 of the of , on the day of , 18 ,
 and of the amount due for principal and interest thereon, and of all pay-
 ments made on account thereof.

The said C. D., is still the mortgagee of the said property, and has not
 assigned the said mortgage (or the said E. F. is the assignee of the said
 Mortgage by virtue of an assignment thereof from the said C. D. to him,
 dated the day of , 18 ,) (or as the case may be).

No payments have been made on account of the said Mortgage (or The
 following payments, and no other, have been made on account of the said
 Mortgage :

1886, January 1, Cash received.....\$100 00)

The amount still due for principal and interest on the said Mortgage is
 the sum of \$ computed as follows : (here give the computation).

County of) I, C.D.
 To wit, of the
 of the Mortgagee named in the Chattel Mortgage mentioned
 in the foregoing (or annexed) statement (or assignee of the mortgagee
 named in the Chattel Mortgage mentioned in the foregoing [or annexed]
 statement (as the case may be), make oath and say :

1. That the foregoing (or annexed) statement is true.
2. That the Chattel Mortgage mentioned in the said statement has not
 been kept on foot for any fraudulent purpose.

Sworn before me at the
 of in the
 County of this
 day of 18 .

57 V. c. 37, Sched. B.

CHAPTER 149.

An Act respecting Conditional Sales of Chattels.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. Receipt notes, hire receipts and orders for chattels, given by bailees of chattels, where the condition of the bailment is such that the possession of the chattel passes without any ownership therein being acquired by the bailee until the payment of the purchase or consideration money or some stipulated part thereof, shall only be valid as against subsequent purchasers or mortgagees without notice in good faith for valuable consideration in the case of manufactured goods or chattels, which at the time possession is given to the bailee, have the name and address of the manufacturer, bailor or vendor of the same painted, printed, stamped or engraved thereon or otherwise plainly attached thereto, and no such bailment shall be valid as against such subsequent purchaser or mortgagee as aforesaid, unless it is evidenced in writing, signed by the bailee or his agent. 51 V. c. 19, s. 1.

Conditional sales of manufactured goods when to be valid.

2. The preceding section shall not apply to household furniture, other than pianos, organs, or other musical instruments : nor shall it apply to any chattels mentioned in any such receipt note, hire receipt, order or other instrument where the manufacturer, bailor or vendor within ten days from the execution of the receipt note, hire receipt, order or other instrument evidencing the bailment or conditional sale given to secure the purchase money, or a part thereof, shall file with the Clerk of the County Court of the county in which the bailee or conditional purchaser resided at the time of the bailment or conditional purchase, a copy of the said receipt note, hire receipt, order or other instrument evidencing the bailment or conditional sale. 51 V. c. 19, s. 6.

Section 1 not to apply to certain household furniture.

Section 1 not to apply when copy of receipt filed with Clerk of County Court.

3.—(1) When the bailee or conditional purchaser resides at the time of the bailment or conditional purchase in an unorganized district, all instruments may be filed with the Clerk of the Court with whom mortgages and sales of chattels are to be registered in such district, under the law at the time in force.

Filing of instruments in unorganized districts.

(2) This section shall apply to instruments filed with the said officer prior to the 7th day of April 1890. 53 V. c. 36, ss. 1, 2.

Clerk to file
copy of
receipt note.

4. The Clerk of the Court, on receipt of such copy, shall duly file the same and cause it to be properly entered in an index book to be kept for that purpose, and shall be entitled to charge ten cents for every such filing and five cents for every search in respect thereof. A clerical error which does not mislead, or an error in an immaterial or non-essential part of the said copy so filed, shall not invalidate the said filing or destroy the effect thereof. 51 V. c. 19, s. 7.

Copy of
receipt note
to be left with
vendee.

5. The manufacturer, bailor or vendor shall leave a copy of the receipt note, hire receipt, order or other instrument by which a lien on the chattel is retained, or which provides for a conditional sale, with the bailee or conditional vendee at the time of the execution of the instrument, or within twenty days thereafter. 51 V. c. 19, s. 8.

Statement of
amount due to
be given on
request.

6.—(1) Every manufacturer, bailor or vendor shall, in answer to an inquiry made by any proposed purchaser or other interested person, within five days furnish full information respecting the amount or balance due or unpaid on any such manufactured goods or chattels, and the terms of payment of such amount or balance, and in case of his refusal or neglect to furnish the information asked for, such manufacturer, bailor or vendor shall, on conviction before a Stipendiary or Police Magistrate or two Justices of the Peace, be liable to a fine not exceeding \$50.

(2) Any person convicted under this Act shall have the right to appeal against such conviction to the Judge of the County Court without a jury. 51 V. c. 19, s. 2.

Address to be
given by per-
son requiring
statement.

7. The person so inquiring shall, if such inquiry is by letter, give a name and post office address to which a reply may be sent, and it shall be sufficient if the information aforesaid be given by registered letter deposited in the post office within the said five days, addressed to the person inquiring at his proper post office address, or where a name and address is given as aforesaid, addressed to such person by the name and at the post office so given. 51 V. c. 19, s. 3.

Breach of
condition.

8. In case any manufacturer, bailor or vendor of any chattels in respect of which there has been a conditional sale or promise of sale, or his successor in interest takes possession thereof for breach of condition, he shall retain the same for twenty days, and the bailee or his successor in interest may redeem the same within such period on payment of the full amount then in arrear, together with interest and the actual costs and expenses of taking possession which have been incurred. 51 V. c. 19, s. 4.

Notice of sale

9. Where the goods or chattels have been sold or bailed originally for a greater sum than \$30, and the same have been

taken possession of, as in the preceding section mentioned, such goods or chattels shall not be sold without five days' notice of the intended sale being first given to the bailee or his successor in interest. The notice may be personally served or may, in the absence of such bailee or his successor in interest, be left at his residence or last known place of abode in Ontario, or may be sent by registered letter, deposited in the post office at least seven days before the time when the said five days will elapse, addressed to the bailee or his successor in interest, at his last known post office address in Canada. The said five days or seven days may be part of the twenty days in section 8 mentioned. 51 V. c. 19, s. 5.

10.—(1) Where any goods or chattels subject to the provisions of this Act are affixed to any realty without the consent in writing of the owner of the goods or chattels, such goods and chattels shall notwithstanding remain so subject, but the owner of such realty, or any purchaser, or any mortgagee, or other incumbrancer on such realty, shall have the right as against the manufacturer, bailor or vendor of such goods or chattels, or any person claiming through or under them, to retain the said goods and chattels upon payment of the amount due and owing thereon.

Chattels affixed to realty to remain subject to lien.

(2) The provisions of this section are to be deemed retro-active and shall apply to past as well as to future transactions. 60 V. c. 3, s. 3; c. 14, s. 80.

CHAPTER 150.

An Act respecting Contracts in relation to Goods entrusted to Agents.

INTERPRETATION, s. 1.	NOT TO AUTHORIZE LIEN, s. 8.
AGENT ENTRUSTED WITH GOODS TO BE DEEMED OWNER FOR CERTAIN PURPOSES, s. 2.	CONTRACTS WITH AGENTS MUST BE BONA FIDE, s. 9.
AGENT IN POSSESSION TO BE DEEMED ENTRUSTED, s. 3.	BONA FIDE TRANSACTIONS TO BIND OWNERS, s. 10.
AGENT IN POSSESSION OF DOCUMENT OF TITLE DEEMED ENTRUSTED WITH THE GOODS REPRESENTED BY IT, ss. 3, 4.	BONA FIDE LOAN OR ADVANCE WHEN DEEMED MADE ON SECURITY OF GOODS, s. 11.
CONTRACTS FOR PURCHASE, WHEN VALID, s. 5.	CONTRACT WITH SUB-AGENTS WHEN DEEMED MADE WITH AGENTS, s. 12.
CONTRACTS FOR LIEN, ETC., WHEN VALID, s. 6.	PAYMENTS WHEN DEEMED ADVANCES, s. 13.
PLEDGE OF DOCUMENT OF TITLE TO BE DEEMED PLEDGE OF GOODS REPRESENTED BY IT, s. 7.	CIVIL LIABILITY OF AGENT, s. 14.
ANTECEDENT DEBT DUE BY AGENT	CONVICTION FOR THEFT, s. 15.
	OWNER MAY REDEEM GOODS PLEDGED BY AGENT, s. 16.
	REMEDY OF OWNER AGAINST ESTATE OF INSOLVENT AGENT, s. 17.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpre-
tation.

1. Where the following words occur in this Act they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

“Goods.”

1. “Goods” shall include all personal property of whatever nature or kind soever;

“Shipped.”

2. “Shipped” shall mean the carriage of goods, whether by land or by water;

“Document
of title.”

3. “Document of title” shall include every bill of lading, warehouse-keeper’s or wharfinger’s receipt or order for delivery of goods, every bill of inspection of pot or pearl ashes and every other document used in the ordinary course of business, as proof of the possession or control of goods, or authorizing or purporting to authorize either by endorsement or by delivery, the possessor of such document to transfer or receive goods thereby represented. R. S. O. 1887, c. 128, s. 1.

2. Any agent entrusted with the possession of goods or of the documents of title thereto, shall be deemed the owner thereof for the following purposes, that is to say :

When and to what extent agent to be deemed owner.

1. To make a sale or contract, as in section 5 mentioned ;

2. To entitle the consignee of goods consigned by such agent to a lien thereon for any money or negotiable security advanced or given by him to or for the use of such agent, or received by the agent for the use of the consignee, in like manner as if such agent were the true owner of the goods ;

3. To give validity to any contract or agreement by way of pledge, lien or security *bona fide* made with such agent, as well for an original loan, advance or payment made upon the security of the goods or documents, as for any further or continuing advance in respect thereof ; and

4. To make such contract binding upon the owner of the goods and on all other persons interested therein, notwithstanding the person claiming such pledge or lien had notice that he was contracting only with an agent. R. S. O. 1887, c. 128, s. 2.

3. Every agent in possession of goods or documents of title as aforesaid shall, for the purposes of this Act, be taken to have been entrusted therewith by the owner, unless the contrary is shewn in evidence. R. S. O. 1887, c. 128, s. 3.

Agent in possession to be deemed entrusted.

4. Any agent entrusted as aforesaid and possessed of any document of title, whether derived immediately from the owner of the goods or obtained by reason of the agent having been entrusted with the possession of the goods or of any document of title thereto, shall be deemed to be entrusted with the possession of the goods represented by such document of title. R. S. O. 1887, c. 128, s. 4.

Agent possessed of document of title to be deemed entrusted with goods represented by it.

5. Any person may contract for the purchase of goods with any agent entrusted with the possession thereof, or to whom the same may be consigned, and may receive and pay for the same to such agent ; and such contract and payment shall be binding upon the owner of the goods notwithstanding the purchaser has notice that he is contracting only with an agent. The consideration necessary for the validity of a purchase under this section may be either a payment in cash or the delivery or transfer of other goods, or in part cash and in part the delivery or transfer of other goods. R. S. O. 1887, c. 128, s. 5 ; 57 V. c. 39, s. 1.

What contracts for purchase to be valid.

6. In case any person has a valid lien and security on any goods or document of title or negotiable security in respect of a previous advance upon a contract with an agent, and in case he delivers up the same to such agent upon a contract for the pledge, lien or security of other goods or of another document

What contracts for lien valid.

or security by such agent delivered to him in exchange, to be held upon the same lien as the goods, document or security so delivered up—then such new contract, if *bona fide*, shall be deemed a valid contract made in consideration of a present advance of money within this Act, but the lien acquired under such new contract on the goods, document or security deposited in exchange shall not exceed the value of the goods, document or security so delivered up and exchanged. R. S. O. 1887, c. 128, s. 6.

Pledge of document of title to be deemed pledge of goods represented by it.

7. All contracts pledging or giving a lien upon any such document of title shall be deemed a pledge of and lien upon the goods to which it relates, and the agent shall be deemed the possessor of the goods or documents of title, whether the same are in his actual custody or are held by any other person for him or subject to his control. R. S. O. 1887, c. 128, s. 7.

Antecedent debt not to authorize pledge.

8. No antecedent debt owing from any agent entrusted as aforesaid, shall authorize any lien or pledge in respect of such debt, nor shall it authorize such agent to deviate from any express orders or authority received from his principal. R. S. O. 1887, c. 128, s. 8.

Contracts must be *bona fide*.

9. Such contracts only shall be valid as are herein mentioned, and such loans, advances and exchanges only shall be valid as are made *bona fide* and without notice that the agent making the same has no authority so to do, or that he is acting *mala fide* against the owner of the goods. R. S. O. 1887, c. 128, s. 9.

Bona fide transactions with agents to bind owners.

10. All *bona fide* loans, advances and exchanges as aforesaid though made with notice of the agent not being the owner, but without notice of his acting without authority, shall bind the owner and all other persons interested in the goods, document or security, as the case may be. R. S. O. 1887, c. 128, s. 10.

Bona fide loans or advances when deemed authorized.

11. Where any loan or advance is *bona fide* made to an agent entrusted with and in possession of goods or documents of title as aforesaid on the faith of any contract in writing to consign, deposit, transfer or deliver such goods or documents of title, and the same are actually received by the person making the loan or advance, either at the time of the contract or at a time subsequent thereto, without notice that the agent is not authorized to make the pledge or security, such loan or advance shall be deemed a loan or advance upon the security of the goods or documents of title within this Act. R. S. O. 1887, c. 128, s. 11.

What contracts to be considered to be made with agent.

12. Every contract, whether made directly with the agent as aforesaid or with any clerk or other person on his behalf, shall be deemed a contract with such agent. R. S. O. 1887, c. 128, s. 12.

13. Every payment, whether made by money, bills of exchange or other negotiable security, shall be deemed an advance within this Act. R. S. O. 1887, c. 128, s. 13.

Payments,
when deemed
advances.

14. Nothing herein contained shall lessen, alter or affect the civil responsibility of any agent for the breach of any duty or contract or the non-fulfilment of his orders or authority, in respect of any such contract, agreement, lien or pledge as aforesaid. R. S. O. 1887, c. 128, s. 14.

Other liability
of agents not
to be affected.

15. The conviction of any agent for theft, stealing or other similar crime shall not be received in evidence in any action against him. R. S. O. 1887, c. 128, s. 15.

Conviction for
theft not
admissible in
evidence.

16. Nothing herein contained shall prevent the owner from redeeming any goods or documents of title pledged as aforesaid, at any time before the same have been sold, upon repayment of the amount of the lien thereon or restoration of the securities in respect of which the lien exists, and upon payment or satisfaction to the agent of any sum of money for or in respect of which such agent is entitled to retain the goods or documents, by way of lien against such owner; or shall prevent the owner from recovering from the person with whom any goods or documents have been pledged, or who has any lien thereon, any balance or sum of money remaining in his hands as the produce of the sale of the goods, after deducting the amount of the pledge or lien under the contract. R. S. O. 1887, c. 128, s. 16.

Owners may
redeem goods
pledged.

17. In case of the insolvency of any such agent, and in case the owner of the goods redeems the same, he shall, in respect of the sum paid by him on account of the agent for such redemption, be held to have paid the same for the use of such agent before his insolvency, or in case the goods have not been so redeemed, the owner shall be deemed a creditor of the agent for the value of the goods so pledged at the time of the pledge, and may in either case prove for or set-off the sum so paid, or the value of such goods, as the case may be. R. S. O. 1887, c. 128, s. 17.

Remedy of
the owner
against the
estate of
insolvent
agent.

CHAPTER 151.

An Act respecting Limited Partnerships.

LIMITED PARTNERSHIPS MAY BE FORMED, s. 1.	CERTIFICATES OF RENEWAL, s. 10.
GENERAL AND SPECIAL PARTNERS, ss. 2-4.	ALTERATIONS, WHEN DEEMED A DISSOLUTION, s. 11.
CERTIFICATE OF SUCH PARTNERSHIP. Contents and form, ss. 5, 6.	PARTNERSHIP NAME, s. 12.
Where to be filed and fees, ss. 7, 8.	LIABILITIES OF GENERAL AND SPECIAL PARTNERS, ss. 13-18.
Partnership not deemed formed until filed, s. 9.	NO PREMATURE DISSOLUTION WITHOUT NOTICE, s. 19.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

Limited partnerships may be formed.

1. Limited partnerships for the transaction of any mercantile, mechanical, manufacturing or other business within the Province of Ontario, may be formed by two or more persons, upon the terms, with the rights and powers, and subject to the conditions and liabilities hereinafter mentioned, but the provisions of this Act shall not be construed to authorize any such partnership for the purpose of banking, or the construction or working of railways, or making insurance. R. S. O. 1887, c. 129, s. 1; 55 V. c. 28, s. 1.

Of whom to consist.

2. Such partnerships may consist of one or more persons, who shall be called general partners, and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners. R. S. O. 1887, c. 129, s. 2.

Liability of general and special partners.

3. General partners shall be jointly and severally responsible as general partners are by law, but special partners shall not be liable for the debts of the partnership beyond the amounts by them contributed to the capital. R. S. O. 1887, c. 129, s. 3.

General partners only to transact business, etc.

4. The general partners only shall be authorized to transact business and sign for the partnership, and to bind the same. R. S. O. 1887, c. 129, s. 4.

Certificate to be signed.

5. The persons desirous of forming such partnership shall make and severally sign a certificate which shall contain—

1. The name or firm under which the partnership is to be conducted ; Contents of.

2. The general nature of the business intended to be transacted ;

3. The names of all the general and special partners interested therein, distinguishing which are general and which are special partners, and their usual places of residence ;

4. The amount of capital stock which each special partner has contributed ;

5. The period at which the partnership is to commence and the period at which it is to terminate. R. S. O. 1887, c. 129, s. 5.

6. The certificate shall be in the words or to the effect of the form given in the Schedule to this Act, and shall be signed by the several persons forming the partnership, before a Notary Public, who shall duly certify the same. R. S. O. 1887, c. 129, s. 6. Form of.

7. The certificate so signed and certified shall be filed in the office of the Clerk of the County Court of the county, in which the principal place of business of the partnership is situate, and shall be recorded by him at full length in a book to be kept for that purpose and open to public inspection. R. S. O. 1887, c. 129, s. 7. Where to be filed.

8. For filing and recording each such certificate the Clerk shall be entitled to receive the sum of twenty-five cents, and shall also be entitled to receive from every person searching in the book where such certificate is so recorded the sum of ten cents for each such search. 56 V. c. 25, s. 1. Fees.

9. No such partnership shall be deemed to have been formed until a certificate has been made, certified, filed and recorded as above directed ; and if any false statement is made in such certificate, all the persons interested in the partnership shall be liable for all the engagements thereof as general partners. R. S. O. 1887, c. 129, s. 8. Partnership not formed until certificate filed.

10. Every renewal or continuance of a partnership beyond the time originally fixed for its duration, shall be certified, filed and recorded in the manner herein required for its original formation ; and every partnership otherwise renewed or continued, shall be deemed a general partnership. R. S. O. 1887, c. 129, s. 9. Certificates of continuance.

11. Every alteration made in the names of the partners, in the nature of the business, or in the capital or shares thereof, or in any other matter specified in the original certificate, shall What alterations to be deemed a dissolution.

be deemed a dissolution of the partnership, and every such partnership in any manner carried on after any such alteration has been made, shall be deemed a general partnership, unless renewed as a special partnership, according to the provisions of the next preceding section. R. S. O. 1887, c. 129, s. 10.

Partnership
name.

12. The business of the partnership shall be conducted under a name or firm in which the names of the general partners, or some or one of them, only shall be used; and if the name of a special partner is used in such firm with his privity, he shall be deemed a general partner. R. S. O. 1887, c. 129, s. 11.

Liability of
general part-
ners to actions.

13. Actions in relation to the business of the partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partner. R. S. O. 1887, c. 129, s. 12.

Restrictions
upon stock of
special part-
ners.

14. No part of the sum which a special partner has contributed to the capital stock shall be withdrawn by him, or paid or transferred to him in the shape of dividends, profits or otherwise, at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him, if the payment of such interest does not reduce the original amount of the capital; and if after the payment of such interest, any profits remain to be divided, he may also receive his portion of such profits. R. S. O. 1887, c. 129, s. 13.

When special
partner liable
to refund.

15. If it appears that by the payment of interest or profits to a special partner the original capital has been reduced, the partner receiving the same shall be bound to restore the amount necessary to make good his share of the deficient capital, with interest. R. S. O. 1887, c. 129, s. 14.

Privileges of
special part-
ners.

16. A special partner may from time to time examine into the state and progress of the partnership concerns, and may advise as to their management; but he shall not transact any business on account of the partnership, nor be employed for that purpose as agent, attorney or otherwise; and if he interferes contrary to these provisions, he shall be deemed a general partner. R. S. O. 1887, c. 129, s. 15.

General part-
ners liable to
account.

17. The general partners shall be liable to account to each other and to the special partners for their management of the concern in like manner as other partners. R. S. O. 1887, c. 129, s. 16.

Creditors
preferred
to special
partners.

18. In case of the insolvency or bankruptcy of the partnership, no special partner shall, under any circumstances, be al-

lowed to claim as a creditor until the claims of all the other creditors of the partnership have been satisfied. R. S. O. 1887, c. 129, s. 17.

19. No dissolution of such partnership by the acts of the parties shall take place previous to the time specified in the certificate of its formation or in the certificate of its renewal, until a notice of such dissolution has been filed in the office in which the original certificate was recorded, and has been published once in each week, for three weeks, in a newspaper published in the county or district where the partnership has its principal place of business, and for the same time in the *Ontario Gazette*. R. S. O. 1887, c. 129, s. 18.

No premature
dissolution
without no-
tice, etc.

SCHEDULE.

(Section 6.)

CERTIFICATE OF PARTNERSHIP.

We, the undersigned, do hereby certify that we have entered into co-partnership under the style or firm of (*B. D. & Co.*) as (*Grocers and Commission Merchants*), which firm consists of (*A. B.*) residing usually at _____ and (*C. D.*) residing usually at _____, as General Partners; and (*E. F.*) residing usually at _____, and (*G. H.*) residing usually at _____, as Special Partners. The said (*E. F.*) having contributed (\$4,000) and the said (*G. H.*) (\$8,000) to the Capital Stock of the said Partnership.

The said Partnership commenced on the _____ day of _____ 18____, 18____
and terminates on the _____ day of _____ 18____, 18____

Dated this _____ day of _____ 18____, 18____

(Signed,) *A. B.*
C. D.
E. F.
G. H.

Signed in the presence of me, }
L. M.
Notary Public. }

R. S. O. 1887, c. 129, Sched.

CHAPTER 152.

An Act respecting the Registration of Co-Partnerships and Business firms.

DECLARATIONS OF PARTNERSHIP TO BE FILED, s. 1.	DECLARATION BY PERSON TRADING UNDER A BUSINESS NAME NOT HIS OWN, s. 9.
Form, s. 2.	Form, s. 10.
When to be filed, s. 3.	PENALTY FOR NOT FILING DECLARATION, s. 11.
Declaration where alteration in partnership, s. 4.	REGISTRATION OF DECLARATIONS, s. 12.
Allegations of declarations not controvertible by the signers, s. 5.	Form of index books, ss. 13, 14.
Signers to be partners until a new declaration filed, s. 7.	Firm index book, s. 14.
DECLARATION OF DISSOLUTION, s. 6.	Individual index book, s. 15.
ACTIONS AGAINST PARTNERS NOT FILING DECLARATION, s. 8.	Fees of registrars, s. 16.
	Furnishing books, s. 17.
	ACT NOT TO APPLY TO CHEESE MANUFACTURING COMPANIES, s. 18.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Persons in partnership to deliver a declaration to the Registrar.

1.—(1) All persons associated in partnership for trading, manufacturing or mining purposes, shall cause to be delivered to the registrar of the registry division in which they carry or intend to carry on business, a declaration in writing, signed by the several members of such co-partnership.

When some of the parties are absent.

(2) If, however, any of the said members are absent from the place where they carry or intend to carry on business, at the time of making the declaration, then the declaration shall be signed by the members present in their own names, and also for their absent co-members, under their special authority to that effect, and such special authority shall be at the same time filed with the registrar and annexed to the declaration.
R. S. O. 1887, c. 130, s. 1.

Requisites of declaration.

2. The declaration shall be in the form or to the effect of Schedule A to this Act, and shall contain the names, surnames, additions and residences of each and every partner as aforesaid, and the name, style or firm under which they carry on or intend to carry on such business and shall state also the time during which the partnership has existed or is to exist, and

shall declare that the persons therein named are the only members of such co-partnership. R. S. O. 1887, c. 130, s. 2.

3. The declaration shall be filed within six months next after the formation of the partnership. R. S. O. 1887, c. 130, s. 3. Time of filing declaration.

4. A similar declaration shall in like manner be filed when and so often as any change or alteration takes place in the membership of the partnership, or in the name, style or firm under which they intend to carry on business, or in the place of residence of any member of the firm; and every new declaration shall state the alteration in the partnership. R. S. O. 1887, c. 130, s. 4. Declaration where change in partnership.

5. The allegations made in the declarations aforesaid shall not be controvertible as against any party by any person who has signed the same, nor as against any party not being a member of the partnership by any person who has signed the same, or who was really a member of the partnership therein mentioned at the time the declarations were respectively made. R. S. O. 1887, c. 130, s. 5. Allegations in the declaration not to be controvertible by parties signing.

6. Upon the dissolution of a partnership, any or all of the persons who composed the partnership may sign a declaration certifying the dissolution of the partnership: such declaration may be in the form of Schedule B to this Act. R. S. O. 1887, c. 130, s. 7. Declaration of dissolution of partnership.

7. Until a new declaration is made and filed by him, or by his co-partners or any of them as aforesaid, no person who shall have signed the declaration filed shall be deemed to have ceased to be a partner; but nothing herein contained shall exempt from liability any person who, being a partner, fails to declare the same as already provided, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and if judgment is recovered against them, any other partner or partners may be sued jointly or severally in an action on the original cause of action upon which the judgment was rendered; nor shall anything in this Act be construed to affect the rights of any partners with regard to each other, except that no declaration as aforesaid shall be controverted by any person who has signed the same. R. S. O. 1887, c. 130, s. 6. Persons signing declaration to be deemed partners till new declaration is filed. Liability of partners failing to declare the same. Rights of partners between themselves.

8.—(1) If any persons are associated as partners for the purpose of trade, and no declaration is filed under this Act with regard to such partnership, then any action which might be brought against all the members of the partnership may also be brought against any one or more of them, as carrying on or as having carried on business jointly with others, without naming such others in the writ or declaration, under the name and style How actions may be brought against partners in trade not filing declaration.

of their said co-partnership firm; and if judgment be recovered against him or them, any other partner or partners may be sued jointly or severally on the original cause of action on which such judgment is rendered.

When the action is founded on any obligation in writing.

(2) If any such action be founded on any obligation or instrument in writing in which all or any of the partners bound by it are named, then all the partners named therein shall be made parties to such action; and a judgment rendered against any member of such existing co-partnership for a partnership debt or liability, may be executed by process of execution against all and every the partnership stock, property, and effects, in the same manner, and to the same extent as if such judgment had been rendered against such co-partnership. R. S. O. 1887, c. 130, s. 8.

A person whose business style indicates plurality to file a declaration.

9. Every person who is engaged in business for trading, manufacturing, or mining purposes, and who is not associated in partnership with any other person or persons, but who uses as his business style some name or designation other than his own name, or who in such style uses his own name with the addition of "*and Company*," or some other word or phrase indicating a plurality of members in the firm, shall cause to be delivered to the registrar of the registry division in which such person carries on or intends to carry on business, a declaration in writing, signed by such person. R. S. O. 1887, c. 130, s. 9.

Form of declaration.

10. Such declaration shall contain the name, surname, addition, and residence of the person making the same, and the name, style or firm, under which he carries on or intends to carry on business, and shall also state that no other person is associated with him in partnership; and such declaration shall be filed within six months of the time when such style is first used. R. S. O. 1887, c. 130, s. 10.

Penalty for non-compliance.

11. Every member of a partnership or other person required to register a declaration under the provisions of this Act who fails to comply with the requirements of this Act shall forfeit the sum of \$100, to be recovered before any Court of competent jurisdiction, by any person suing as well in his own behalf as on behalf of Her Majesty; and half of such penalty shall belong to the Crown for the uses of the Province, and the other half to the party suing for the same, unless the action is brought, as it may be, on behalf of the Crown only, in which case the whole of the penalty shall belong to Her Majesty for the uses aforesaid. R. S. O. 1887, c. 130, s. 11.

Application of penalty.

Registrar to record declaration.

12. It shall be the duty of the registrar to enter all declarations made under this Act in the order in which the same are received in a book to be by him kept for that purpose, which

shall at all times during office hours be open to the inspection of the public gratuitously ; and for registering each such declaration the registrar shall be entitled to receive from the person filing the same the sum of fifty cents if it does not contain more than two hundred words, and at the rate of ten cents per hundred words for all above the number of two hundred. R. S. O. 1887, c. 130, s. 12.

Registrar's fees for filing.

13. It shall be the duty of each registrar to keep two alphabetical index books of all declarations delivered to him, in pursuance of the provisions of this Act. R. S. O. 1887, c. 130, s. 13.

Registrar to keep two indexes.

14. In one of such books, hereinafter called the "Firm Index Book," the registrar shall enter in alphabetical order the styles of the respective firms, in respect to which declarations have been delivered to him, and shall place opposite each such entry the names of the person or persons composing such firm, and the date of the receipt by him of the declaration, in the manner shewn in the form of "Firm Index Book," given in Schedule C to this Act. R. S. O. 1887, c. 130, s. 14.

Form of "Firm Index Book."

15. In the second of such books, hereinafter called the "Individual Index Book," the registrar shall enter in alphabetical order the names of the respective members of each of such firms, and shall place opposite such entry the style of the firm of which such person is a member, and the date of the receipt of the declaration, in the manner shewn in the form of "Individual Index Book," given in Schedule D to this Act. R. S. O. 1887, c. 130, s. 15.

Form of "Individual Index Book."

16. The registrar shall be entitled to charge for searches the following fees and no more :

Registrar's fees for certain services.

- For searching in Firm Index—each firm ten cents ;
- For searching in Individual Index—each name ten cents ;
- For each certificate, when required—twenty-five cents.

R. S. O. c. 1887, 130, s. 16.

17. All the books required for the purposes of this Act shall be furnished by the treasurer of the municipality, whose duty it is to furnish registry books (or in case of his default, by the registrar), in the same manner as other registry books. R. S. O. 1887, c. 130, s. 17.

Who to furnish registry books.

18. This Act shall not be construed to apply to associations of individuals for the manufacture of cheese and contributing produce from their dairies for that purpose. R. S. O. 1887, c. 130, s. 18.

Cheese manufacturing Cos. excepted.

SCHEDULE A.

(Section 2.)

DECLARATION OF CO-PARTNERSHIP.

Province of Ontario, }
 County of }

We of in (occu-
 pation) and of in
 (occupation), hereby certify

1. That we have carried on and intend to carry on trade and business
 as at in partnership, under
 the name and firm of . (or, I (or we) the
 undersigned, of in , hereby certify
 that I (or we) have carried on and intend to carry on trade and business
 as at in partnership with C. D. of
 and E. F. of (as the case may be).

2. That the said partnership has subsisted since the day of
 18 .

3. And that we, (or I (or we) and the said C. D. and
 E. F.) are and have been since the said day the only members of the
 said partnership.

Witness our hands at this day of
 18 .

R. S. O. 1887, c. 130, Sched. A.

SCHEDULE B.

(Section 6.)

DECLARATION OF DISSOLUTION OF PARTNERSHIP.

Province of Ontario, } I,
 County of } formerly a member of the firm carrying on busi-
 ness as

at , in the County of , under
 the style of , do hereby certify that the said
 partnership was on the day of dissolved

Witness my hand, at , the day of
 , 18 .

R. S. O. 1887, c. 130, Sched. B.

SCHEDULE C.
(Section 14.)
FIRM INDEX BOOK.

STYLE OF FIRM.	NAMES OF PERSONS COMPOSING THE FIRM.	DATE OF FILING DECLARATION.
Abbott, Black & Co.....	George Abbott, John Black, Edward Cook.....	10th February, 1871.
Bernard, Green & Jones.....	John Bernard, Edward Green, John Jones.....	12th February, 1871.
Cook (Thos.) & Co.....	Thomas Cook, James Wilson.....	14th February, 1871.
Dadson, William.....	William Dadson, Thomas Jones, Robert Watson, William Wilberforce, James Johnson.....	14th February, 1871.
Dick & Co.....	Richard Dick.....	15th May, 1872.
Dow (Wm.) & Sons.....	William Dow.....	19th May, 1872.

R. S. O. 1887, c. 130, Sched. C.

SCHEDULE D.
(Section 15.)
INDIVIDUAL INDEX BOOK.

NAME OF INDIVIDUAL.	STYLE OF FIRM OF WHICH A MEMBER.	DATE OF FILING DECLARATION.
Abbott, George.....	Abbott, Black & Co.....	10th February, 1871.
Black, John.....	Abbott, Black & Co.....	10th February, 1871.
Bernard, John.....	Bernard, Green & Jones.....	12th February, 1871.
Cook, Edward.....	Abbott, Black & Co.....	10th February, 1871.
Cook, Thomas.....	Thos. Cook & Co.....	14th February, 1871.
Dadson, William.....	William Dadson.....	14th February, 1871.
Dick, Richard.....	Dick & Co.....	15th May, 1872.
Dow, William.....	Wm. Dow & Sons.....	19th May, 1872.

R. S. O. 1887, c. 130, Sched. D.

NOTE. In the above Schedules, surnames having different initial letters are shown together. This is done merely for the purpose of illustrating by means of a number of names, the manner in which the entries should be made. In the index books, surnames having different initial letters should not appear in the first column of either book on the same page, but should be indexed alphabetically, the style of a firm being indexed in the firm index book according to the initial letter of the first surname mentioned. 60 V. c. 15, Sched. A (27).

SECTION XI.

LABOUR AND WAGES.

CHAPTER 153.

An Act respecting Liens of Mechanics, Wage-Earners
and Others.

SHORT TITLE, s. 1.	REGISTRATION OF CLAIM, ss. 17-22.
INTERPRETATION, s. 2.	WHEN LIEN SHALL CEASE, ss. 23-25.
CONTRACTS WAIVING RIGHTS UNDER ACT VOID, s. 3.	DEATH OF LIENHOLDER, s. 26.
WHO ENTITLED TO LIEN, s. 4.	DISCHARGE OF LIEN, s. 27.
HUSBAND TO BE DEEMED WIFE'S AGENT, s. 5.	TAKING SECURITY NOT TO PREJUDICE, s. 28.
CONTRACTS NOT TO DEPRIVE A THIRD PARTY OF LIEN, s. 6.	LIENHOLDERS ENTITLED TO INFOR- MATION FROM OWNERS, ss. 29, 30.
PROPERTY ON WHICH LIEN ATTACHES, s. 7.	ENFORCING LIENS BY ACTION, ss. 31- 38.
INSURANCE MONEY, s. 8.	NEW TRIAL AND APPEALS, s. 39.
LIMIT OF OWNER'S LIABILITY, ss. 9, 10.	COSTS, ss. 40-45.
PERCENTAGE TO BE RETAINED BY OWNER, s. 11.	PAYMENT OUT, OF MONEYS IN COURT, s. 46.
OWNER MAY PAY LIENHOLDERS, s. 12.	PERSONAL JUDGMENT, ss. 47, 48.
OVER WHAT, LIENS SHALL HAVE PRI- ORITY, s. 13.	FORMS AUTHORIZED, s. 49.
LIEN FOR WAGES, s. 14.	ACT NOT TO APPLY TO LIENS ARISING BEFORE 7TH APRIL, 1896, s. 50.
PAYMENT TO DEFEAT LIEN VOID, s. 15.	PERSONS ENTITLED TO LIEN ON CHAT- TELS MAY SELL SAME, s. 51.
MATERIALS NOT TO BE REMOVED TO PREJUDICE OF LIEN, s. 16.	HOW FAR ACT APPLIES TO RAIL- WAYS, s. 52.

HER MAJESTY, by and with the advice and consent of
the Legislative Assembly of the Province of Ontario,
enacts as follows:—

- Short Title. 1. This Act may be cited as "*The Mechanics' and Wage-Earners' Lien Act.*" 59 V. c. 35, s. 1.
- Interpretation 2. Where the following words occur in this Act, or in the
schedules hereto, they shall be construed in the manner here-
inafter mentioned, unless a contrary intention appears:—
- Contractor." 1. "Contractor" shall mean a person contracting with or
employed directly by the owner or his agent for the doing of

work or placing or furnishing materials for any of the purposes mentioned in this Act ;

2. "Sub-contractor" shall mean a person not contracting with or employed directly by the owner or his agent for the purposes aforesaid, but contracting with or employed by a contractor, or under him by another sub-contractor ;

3. "Owner" shall extend to and include any person, firm, association, body corporate or politic, including a municipal corporation and railway company having any estate or interest in the lands upon or in respect of which the work or service is done, or materials are placed or furnished, at whose request and upon whose credit or on whose behalf or with whose privity or consent or for whose direct benefit any such work or service is performed or materials are placed or furnished, and all persons claiming under him or them whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished ;

4. "Person" shall extend to and include a body corporate or politic, a firm, partnership or association ;

5. "Material" or "materials" shall include every kind of movable property. 59 V. c. 35, s. 2 (1-5).

6. "Wages" shall mean money earned by a mechanic or labourer for work done, whether by the day or as piece work ; 59 V. c. 35, s. 13 (6).

7. "Registry office" shall include land titles office. 59 V. c. 35, s. 2 (6).

3.—(1) Every agreement or bargain, verbal or written, express or implied, which has heretofore been made or entered into, or which may hereafter be made or entered into, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act, by which it is agreed that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of any person entering into such agreement, is and shall be null and void and of no effect as against any such workman, servant, labourer, mechanic, or other person. 59 V. c. 38, s. 3.

Contracts
waiving ap-
plication of
Act to
be void.

(2) This section shall not apply to any foreman, manager, officer or other person whose wages are more than \$3 a day. 59 V. c. 38, s. 12.

4. Unless he signs an express agreement to the contrary, and in that case subject to the provisions of section 3, any person who performs any work or service upon or in respect of, or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving or repairing of any erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, or fence, sidewalk, paving, fountain, fishpond, drain, sewer,

Nature of
lien.

aqueduct, roadbed, way, fruit and ornamental trees, or the appurtenances to any of them, for any owner, contractor or sub-contractor, shall by virtue thereof have a lien for the price of such work, service or materials upon the erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit and ornamental trees, and appurtenances thereto, and the lands occupied thereby or enjoyed therewith, or upon or in respect of which the said work or service is performed, or upon which such materials are placed, or furnished to be used, limited however in amount to the sum justly due to the person entitled to the lien and to the sum justly owing (except as herein provided) by the owner. 59 V. c. 35, s. 5; 60 V. c. 24, s. 1.

Work done or materials furnished on lands of married women.

5. Where work or service is done or materials are furnished upon or in respect of the lands of any married woman with the privity and consent of her husband he shall be conclusively presumed to be acting as well for himself and so as to bind his own interest, and also as the agent of such married woman for the purposes of this Act, unless the person doing such work or service or furnishing such materials shall have had actual notice to the contrary before doing such work or furnishing such materials. 59 V. c. 35, s. 3.

Contracts not to deprive third party of lien.

6. No agreement shall be held to deprive anyone otherwise entitled to a lien under this Act, and not a party to the agreement, of the benefit of the lien, but the lien shall attach, notwithstanding such agreement. 59 V. c. 35, s. 4.

Property upon which lien shall attach.

7.—(1) The lien shall attach upon the estate or interest of the owner as defined by this Act in the erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit and ornamental trees and the appurtenances thereto, upon or in respect of which the work or service is performed, or the materials placed or furnished to be used, and the lands occupied thereby or enjoyed therewith.

Where estate charged is leasehold.

(2) In cases where the estate or interest charged by the lien is leasehold the fee simple may also, with the consent of the owner thereof, be subject to the said lien, provided such consent is testified by the signature of such owner upon the claim of lien at the time of the registering thereof, and duly verified.

Prior mortgage.

(3) In case the land upon or in respect of which any work or service is performed, or upon or in respect of which materials are placed or furnished to be used, is incumbered by a prior mortgage or other charge, and the selling value of the land is increased by the work or service, or by the furnishing or placing of the materials, the lien under this Act shall be entitled to rank upon such increased value in priority to the mortgage or other charge. 59 V. c. 35, s. 6 (1-3).

8. Where any of the property upon which a lien is given by this Act is wholly or partly destroyed by fire, any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed, and shall be subject to the claims of all persons for liens to the same extent as if such moneys were realized by a sale of such property in an action to enforce a lien. 59 V. c. 35, s. 7.

Application of insurance when lien attaches.

9. Save as herein provided the lien shall not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. 59 V. c. 35, s. 8.

Limit of amount of lien.

10. Save as herein provided where the lien is claimed by any other person than the contractor, the amount which may be claimed in respect thereof shall be limited to the amount owing to the contractor or sub-contractor or other person for whom the work or service has been done or the materials have been placed or furnished. 59 V. c. 35, s. 9.

Limit of lien when claimed by some other than contractor.

11.—(1) In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise under the provisions of this Act shall, as the work is done or materials are furnished under the contract, deduct from any payments to be made by him in respect of the contract, and retain for a period of thirty days after the completion or abandonment of the contract twenty per cent. of the value of the work, service and materials actually done, placed or furnished as mentioned in section 4 of this Act, and such values shall be calculated on the basis of the price to be paid for the whole contract; Provided that where a contract exceeds \$15,000 the amount to be retained shall be fifteen per cent. instead of twenty per cent. and the liens created by this Act shall be a charge upon the amounts directed to be retained by this section in favour of sub-contractors whose liens are derived under persons to whom such moneys so required to be retained are respectively payable. 60 V. c. 24, s. 2 (1).

Percentage to be deducted and retained by owner for thirty days.

Proviso.

(2) All payments up to eighty per cent (or eighty-five per cent. where the contract price exceeds \$15,000) of such value made in good faith by an owner to a contractor, or by a contractor to a sub-contractor, or by one sub-contractor to another sub-contractor before notice in writing of such lien given by the person claiming the lien to the owner, contractor or the sub-contractor, as the case may be, shall operate as a discharge *pro tanto* of the lien created by this Act. 59 V. c. 35, s. 10 (2).

Payments made in good faith without notice of lien.

(3) Payment of the percentage required to be retained under subsection 1 may be validly made so as to discharge all liens or charges under this Act in respect thereof after the expiration of the said period of thirty days mentioned in subsection 1 unless in the meantime proceedings shall have been commenced under this Act to enforce any lien or charge against such per-

centage as provided by sections 23 and 24 of this Act. 60 V. c. 24, s. 2 (2).

Payments made direct by owner to persons entitled to lien.

12. In case an owner or contractor chooses to make payments to any persons referred to in section 4 of this Act for or on account of any debts justly due to them for work or service done or for materials placed or furnished to be used as therein mentioned, and shall within three days afterwards give, by letter or otherwise, written notice of such payment to the contractor or his agent, or to the sub-contractor or his agent, as the case may be, such payments shall, as between the owner and the contractor, or as between the contractor and the sub-contractor, as the case may be, be deemed to be payments to the contractor or sub-contractor, as the case may be, on his contract generally, but not so as to affect the percentage to be retained by the owner, as provided by section 11 of this Act. 59 V. c. 35, s. 11.

Priority of lien.

13.—(1) The lien created by this Act shall have priority over all judgments, executions, assignments, attachments, garnishments and receiving orders recovered, issued or made after such lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of such lien to the person making such payments or after registration of such lien as hereinafter provided.

Agreements for purchase where part of purchase money unpaid.

(2) In case of an agreement for the purchase of land, and the purchase money or part thereof is unpaid, and no conveyance made to the purchaser, the purchaser shall, for the purposes of this Act and within the meaning thereof, be deemed a mortgagor and the seller a mortgagee.

Priority among lien-holders.

(3) Excepting where it is otherwise declared by this Act, no person entitled to a lien on any property, or to a charge on any moneys under this Act shall be entitled to any priority or preference over another person of the same class entitled to a lien or charge on such property or moneys under this Act, and each class of lien holders, except where it is otherwise declared by this Act, shall rank *pari passu* for their several amounts, and the proceeds of any sale shall, subject as aforesaid, be distributed among them *pro rata* according to their several classes and rights. 59 V. c. 35, s. 12.

Priority of lien for wages.

14.—(1) Every mechanic or laborer whose lien is for work done for wages shall, to the extent of thirty days' wages, have priority over all other liens derived through the same contractor or sub-contractor to the extent of and on the twenty per cent. or fifteen per cent., as the case may be, of the contract price directed to be retained by section 11 of this Act, to which the contractor or sub-contractor through whom such lien is derived is entitled, and all such mechanics and labourers shall rank thereon *pari passu*. 59 V. c. 35, s. 13 (1); 60 V. c. 24, s. 3.

(2) Every wage earner shall be entitled to enforce a lien in respect of the contract not completely fulfilled. Enforcing lien in such cases.

(3) In case of the contract not having been completely fulfilled when the lien is claimed by wage-earners, the percentage aforesaid shall be calculated on the work done or materials furnished by the contractor or sub-contractor by whom such wage earners are employed. Calculating percentage when contract not fulfilled.

(4) Where the contractor or sub-contractor makes default in completing his contract the percentage aforesaid shall not, as against a wage-earner claiming a lien under this Act, be applied to the completion of the contract or for any other purpose by the owner or contractor, nor to the payment of damages for the non-completion of the contract by the contractor or sub-contractor, nor in payment or satisfaction of any claim of any kind against the contractor or sub-contractor. Percentage not to be otherwise applied.

(5) Every device by any owner, contractor or sub-contractor adopted to defeat the priority given to wage-earners for their wages by this Act shall, as respects such wage-earners, be null and void. 59 V. c. 35, s. 13 (2-5). Devices to defeat priority of wage-earners.

15. Nothing in this Act contained shall apply to make legal any payment made for the purpose of defeating or impairing a claim for a lien arising or existing under this Act, and all such payments shall be taken to be null and void. 59 V. c. 35, s. 14. Payments made for purpose of defeating claim for lien.

16.—(1) During the continuance of a lien no portion of the materials affected thereby shall be removed to the prejudice of the lien, and any attempt at such removal may be restrained on application to the High Court, or to a Judge or officer having power to try an action to realize a lien under this Act. Restraining attempt to remove material affected by lien.

(2) The Court, Judge or officer to whom any such application is made, may make such order as to the costs of and incidental to the application and order as he deems just. Costs.

(3) When any material is actually brought upon any land to be used in connection with such land for any of the purposes enumerated in section 4 of this Act, the same shall not be subject to execution or other process to enforce any debt (other than for the purchase thereof) due by the person furnishing the same. 59 V. c. 35, s. 15. Material furnished for certain purposes not to be subject to execution.

17.—(1) A claim for lien applicable to the case may be registered in the registry office of the registry division or where the land is registered under *The Land Titles Act* in the land titles office of the locality in which the land is situated, and shall set out:— Registration of claim for lien. Rev. Stat. c. 138.

Contents of
claim of lien.

(a) The name and residence of the person claiming the lien and of the owner of the property to be charged (or of the person whom the person claiming the lien, or his agent, believes to be the owner of the property to be charged) and of the person for whom and upon whose credit the work (or service) was or is to be done, or materials furnished or placed, and the time or period within which the same was, or was to be, done or furnished or placed ;

(b) A short description of the work (or service) done or materials furnished or placed or to be furnished or placed ;

(c) The sum claimed as due or to become due ; 59 V. c. 35, s. 16 (1 a-c).

Rev. Stat.
c. 138.

(d) A description of the land to be charged sufficient for the purpose of registration, and where the land is registered under *The Land Titles Act* such claim shall also contain a reference to the number of the parcel of the land and to the register in which such land is registered in the Land Titles office.

(e) The date of expiry of the period of credit (if any) agreed by the lienholder for payment for his work (or service) or materials where credit has been given.

Form of
claim.

(2) The claim may be in one of the forms given in the Schedule to this Act and shall be verified by the affidavit of the person claiming the lien or of his agent or assignee having a personal knowledge of the matters required to be verified and the affidavit of the agent or assignee shall state that he has such knowledge R. S. O. 1887, c. 116, s. 55 ; 59 V. c. 35, s. 16.

Description of
lands where
lien registered
against rail-
way.

(3) When it is desired to register a claim for lien against the lands of a railway company, it shall be a sufficient description of such lands to describe them as the lands of such railway company and every such claim for lien shall be registered in the general registry in the registry office for the registration district where such lien is claimed to have arisen. 60 V. c. 24, s. 4.

What may be
included in
claim.

18. A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but where more than one lien is included in one claim each lien shall be verified by affidavit as provided in section 17 of this Act. 59 V. c. 35, s. 17.

Claims not to
be invalidated
for informality.

19.—(1) A substantial compliance with sections 17 and 18 of this Act shall only be required, and no lien shall be invalidated by reason of failure to comply with any of the requisites of the said sections unless in the opinion of the court, judge or officer who has power to try an action under this Act, the owner, contractor or sub-contractor, mortgagee or other person, as the case may be, is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

(2) Nothing in this section contained shall be construed as dispensing with registration of the lien required by this Act. 59 V. c. 35, s. 18.

20.—(1) The registrar upon payment of his fee, shall register the claim, so that the same may appear as an incumbrance against the land therein described. Lien to be registered an incumbrance.

(2) The fee for registration shall be twenty-five cents. If several persons join in one claim, the registrar shall be entitled to a further fee of ten cents for every person after the first. Fee for registration.

(3) The registrar shall not be bound to copy in any registry book any claim or affidavit, but he shall number each claim, and shall insert in the alphabetical and abstract indexes the like particulars as in other cases; he may describe the nature of the instrument as "Mechanics' Lien," 59 V. c. 35, s. 19. Manner of registration.

21 Where a claim is so registered, the person entitled to the lien shall be deemed a purchaser pro tanto, and within the provisions of *The Registry Act*, but except as herein otherwise provided, *The Registry Act* shall not apply to any lien arising under this Act. 59 V. c. 35, s. 20. Lienholder to be deemed a purchaser. Rev. Stat. c. 136.

22.—(1) A claim for lien by a contractor or sub-contractor may, in cases not otherwise provided for, be registered before or during the performance of the contract or within thirty days after the completion thereof Claims for liens when to be registered

(2) A claim for lien for materials may be registered before or during the furnishing or placing thereof or within thirty days after the furnishing or placing of the last material so furnished and placed.

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty days after the completion of the service.

(4) A claim for lien for wages may be registered at any time during the performance of the work for which such wages are claimed, or within thirty days after the last day's work for which the lien is claimed. 59 V. c. 35, s. 21; 60 V. c. 24, s. 5.

23. Every lien which is not duly registered under the provisions of this Act shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime an action is commenced to realize the claim, or in which the claim may be realized under the provisions of this Act, and a certificate thereof according to Form 6 in the schedule hereto, signed by the proper officer of the Court, is duly registered in the registry office of the registry division, or where the land is registered under *The Land Titles Act*, in the land titles office of the locality, wherein the lands in respect of which the lien is claimed are situate. 59 V. c. 35, s. 22; 60 V. c. 3, s. 3; c. 15, Sched. A (76). Liens to cease if proceedings not had within time fixed by Act. Rev. Stat. c. 138.

When lien to cease if registered and not proceeded upon.

24.—(1) Every lien which has been duly registered under the provisions of this Act shall absolutely cease to exist after the expiration of ninety days after the work or service has been completed or materials have been furnished or placed, or the expiry of the period of credit, where such period is mentioned in the claim of lien registered, unless in the meantime an action is commenced to realize the claim under the provisions of this Act, or an action is commenced in which the claim may be realized under the provisions of this Act, and a certificate registered as required by the next preceding section. 59 V. c. 35, s. 23 (1); 60 V. c. 15, Sched. A (76).

Lien to expire at end of six months unless renewed.

(2) The registration of a lien shall cease to have any effect at the expiration of six months from the registration thereof, unless the lien shall be again registered within the said period, except in the meantime proceedings have been instituted to realize the claim and a certificate thereof has been duly registered in the proper registry or land titles office. 59 V. c. 35, s. 23 (2).

When lien to cease if there is no period of credit.

25. If there is no period of credit, or if the date of the expiry of the period of credit is not stated in the claim so registered, the lien shall cease to exist upon the expiration of ninety days after the work or service has been completed or materials furnished or placed unless in the meantime an action shall have been commenced and a certificate registered as required by section 23 of this Act. 59 V. c. 35, s. 24.

Death of lien-holder.

26. In the event of the death of a lien-holder his right of lien shall pass to his personal representatives; and the right of a lien-holder may be assigned by any instrument in writing. 59 V. c. 35, s. 25.

Discharge of lien.

27.—(1) A lien may be discharged by a receipt signed by the claimant, or his agent duly authorized in writing, acknowledging payment, and verified by affidavit and registered; such receipt shall be numbered and entered by the Registrar like other instruments but need not be copied in any book, but the registrar shall enter against the entry of the lien to which the discharge relates the word "discharged," and state the registration number of such discharge; the fees shall be the same as for registering a claim of lien.

Security or payment into court and vacating lien thereon.

(2) Upon application the court or judge or other officer having power to try an action to realize a lien, may receive security or payment into court in lien of the amount of the claim and may thereupon vacate the registration of the lien.

Vacating registration on other grounds.

(3) The court or such judge or other officer may vacate the said registration upon any other ground.

(4) Where the certificate required by section 23 or section 24 of this Act has not been registered within the time limited, and an application is made to vacate the registration of a lien after the time for registration of the certificate required by sections 23, 24 and 25 of this Act, the applicant shall not be required to give notice of the application to the person claiming the lien, and the order vacating the lien may be made *ex parte* upon production of the certificate of the proper registrar certifying the facts entitling the applicant to such order. 59 V. c. 35, s. 26 (1-4).

When notice of application to vacate not requisite.

28. The taking of any security for, or the acceptance of any promissory note for, or the taking of any other acknowledgment of the claim, or the giving of time for the payment of the claim, or the taking of any proceedings for the recovery of the claim or the recovery of any personal judgment for the claim, shall not merge, waive, pay, satisfy, prejudice or destroy any lien created by this Act, unless the lien-holder agrees in writing that it shall have that effect; provided, however, that a person who has extended the time for payment of any claim for which he has a lien under this Act to obtain the benefit of this subsection shall commence an action to enforce such lien within the time limited by this Act, and register a certificate as required by sections 23, 24 or 25 of this Act, but no further proceedings shall be taken in the action until the expiration of such extension of time; provided further, that notwithstanding such extension of time, such person may, where an action is commenced by any other person to enforce a lien against the same property, prove and obtain payment of his claim in such action, as if no such extension had been given. 59 V. c. 35, s. 26 (5).

Certain acts not to prejudice right to enforce lien.

29. Any lien-holder may at any time demand of the owner or his agent, the terms of the contract or agreement with the contractor for and in respect of which the work, services or materials is or are performed or furnished or placed, and if such owner or his said agent shall not, at the time of such demand or within a reasonable time thereafter, inform the person making such demand, of the terms of such contract or agreement, and the amount due and unpaid upon such contract or agreement, or shall intentionally or knowingly falsely state the terms of said contract or agreement, or the amount due or unpaid thereon, and if the person claiming the lien shall sustain loss by reason of such refusal or neglect or false statement, the said owner shall be liable to him in an action therefor to the amount of such loss. 59 V. c. 35, s. 27; 60 V. c. 24, s. 6.

Lien-holders to be entitled to information from owner as to terms of contract.

30. The Court or Judge, or other officer having power to try an action to realize a lien, may on a summary application at any time before or after any action is commenced for the enforcement of such lien, make an order for the owner or his agent to produce and allow any lien-holder to inspect any such

Order for inspection of contract by lien-holder.

contract, and may make such an order as to the costs of such application and order as may be just. 59 V. c. 35, s. 28.

Mode of realizing liens.

31.—(1) The liens created by this Act may be realized by actions in the High Court according to the ordinary procedure of that court, excepting where the same is varied by this Act.

(2) Without issuing a writ of summons, an action under this Act shall be commenced by filing in the proper office a statement of claim, verified by affidavit (Form 5).

(3) The statement of claim shall be served within one month after it is filed, but a Judge or other officer having power to try the action may extend the time for service thereof, and the time for delivering a statement of defence (Forms 7 and 8) shall be the same as for entering an appearance in an action in the High Court.

(4) It shall not be necessary to make any lien-holders parties defendant to the action, but all lien-holders served with the notice of trial shall for all purposes be treated as if they were parties to the action. 59 V. c. 35, s. 29.

Lien-holders joining in action.

32. Any number of lien-holders, claiming liens on the same property, may join in an action, and any action brought by a lien-holder shall be taken to be brought on behalf of all other lien-holders on the property in question. 59 V. c. 35, s. 30.

Who may try action to enforce lien.

33. An action to enforce a lien may be tried by the Master in Ordinary, a Local Master of the High Court, an Official Referee, or a Judge of the County Court, in any county or judicial district in which the lands are situate; or by a Judge of the High Court of Justice at any sittings of that court for the trial of actions. 59 V. c. 35, s. 31.

Powers of certain officers.

34. The Master in Ordinary, the Local Masters, Official Referees, and the County Judges, shall have, in addition to their ordinary powers, all the jurisdiction, powers and authority, of the High Court or a Judge thereof and of the said Master in Ordinary, to try, and otherwise completely dispose of, an action to realize a lien, and all questions arising in such action, including the giving or refusing of the costs hereinafter provided. 59 V. c. 35, s. 32; 60 V. c. 24, s. 7.

Appointing day for trial.

35.—(1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases where it is desired to try the action other than at the ordinary sittings of the High Court, either party may apply to a Judge or other officer who has the power to try the action, to fix a day for the trial thereof, and the said Judge, or other officer, shall give an appointment fixing the day and place of trial, and on the day fixed, or on such other day to which the trial may be adjourned, shall proceed to try the action, and all questions which arise

therein, or which are necessary to be tried, to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom the notice of trial has been served, and at the trial he shall take all accounts, make all inquiries, and give all directions, and do all other things necessary to try and otherwise finally dispose of the action and of all matters, questions and accounts arising in the action or at the trial, and to adjust the rights and liabilities of, and give all necessary relief to, all parties to the action or who have been served with the notice of trial, and shall embody all the results in the judgment (Form 13).

(2) The Judge or officer who tries the action may order that the estate or interest charged with the lien may be sold, and when, by the judgment, a sale is directed of the estate or interest charged with the lien, the Judge or officer who tries the action may direct the sale to take place at any time after judgment, allowing, however, a reasonable time for advertising such sale. Estate may be sold.

(3) The Judge or officer who tries the action may also direct the sale of any materials and authorize the removal thereof. Sale of materials.

(4) Any lien-holder, who has not proved his claim at the trial of an action to enforce a lien, on application to the Judge, or officer who tried the action, on such terms as to costs and otherwise as may be just, may be let in to prove his claim at any time before the amount realized in the action for the satisfaction of liens has been distributed, and where such a claim is proved and allowed the Judge or officer shall amend the judgment so as to include such claim therein. Letting in lien-holders who have not proved their claims at trial.

(5) Any lien-holder for an amount not exceeding \$100, or any lien-holder not a party to the action, may attend in person at the trial of an action to enforce a lien, and on any proceedings in such action, or may be represented thereat or thereon by a solicitor or by an agent who is not a solicitor. Right of lien-holders to attend at trial.

(6) When a sale is had the Judge or officer with whose approbation the lands are sold shall make a report on the sale and therein direct to whom the moneys in court shall be paid, and may add to the claim of the person conducting the sale his actual disbursements incurred in connection therewith, and where sufficient to satisfy the judgment and costs is not realized from the sale, he shall certify the amount of the deficiency and the names of the persons, with their amounts, who are entitled to recover the same, and the persons by the judgment adjudged to pay the same, and such persons shall be entitled to enforce the same by execution or otherwise as a judgment of the court. Report where sale is had.

59 V. c. 35, s. 33.

36. The party obtaining an appointment fixing the day and place of trial shall, at least eight clear days before the day fixed for the trial, serve a notice of trial which may be in Form 10 in the schedule to this Act, upon the solicitors for the Notice of trial, and service of.

defendants who appear by solicitors, and on all lien-holders who have registered their liens as required by this Act, or who are known to him, and on all other persons having any charge or incumbrance, or claim on the said lands, who are not parties, or who, being parties, appear personally in the said action, and such service shall be personal unless otherwise directed by the Judge or officer who is to try the case, who may, in lieu of personal service, direct in what manner the notice of trial may be served. 59 V. c. 35, s. 34.

Consolidation
of actions.

37. When more than one action is brought to realize liens in respect of the same property, a Judge or other officer having power to try such actions, may, on the application of any party to any one of such actions, or on the application of any other person interested, consolidate all such actions into one action, and may give the conduct of the consolidated action to any plaintiff he sees fit. 59 V. c. 35, s. 35.

Transferring
carriage of
proceedings.

38. Any lien-holder entitled to the benefit of the action may apply for the carriage of the proceedings, and the Judge, or any other officer having power to try the action, may thereupon make an order giving such lienholder the carriage of the proceedings, and such lienholder shall for all purposes thereafter be the plaintiff in the action. 59 V. c. 35, s. 36.

Where judg-
ment of court
of first instance
to be final.

39.—(1) In all actions where the total amount of the claims of the plaintiff and other persons claiming liens is \$100 or less, the judgment shall be final, binding, and without appeal, except, that the Judge or officer who tried the same may, upon application within fourteen days after judgment is pronounced, grant a new trial. 59 V. c. 35 s. 38; 60 V. c. 24, s. 9.

Where appeal
to Divisional
Court final.

(2) In all actions where the total amount of the claims of the plaintiff and other persons claiming liens is more than \$100 and not more than \$200, any person affected thereby may appeal therefrom to a Divisional Court, whose judgment shall be final and binding on the appellant, but the respondent may appeal therefrom to the Court of Appeal, whose judgment shall be final and binding on all parties. 60 V. c. 15, Sched. A (77); c. 24, s. 10, (1).

Appeal in
other cases.

(3) In all other cases an appeal may be had in like manner and to the same extent as from the decision of a Judge trying an action in the High Court without a jury. 60 V. c. 24, s. 10 (2).

Limit of fees
in money or
stamps.

40. No fees in stamps or money shall be payable to any Judge or other officer in any action brought to realize a lien under this Act, nor on any filing, order, record or judgment, or other proceeding in such action, excepting that every person other than a wage-earner shall, on filing his statement of claim where he is a plaintiff, or on filing his claim where he is not

a plaintiff, pay in stamps one dollar on every one hundred dollars, or fraction of one hundred dollars, of the amount of his claim up to one thousand dollars. 59 V. c. 35, s. 37. 60 V. c. 24, s. 8.

41. The costs of the action under this Act awarded by the Judge or officer trying the action, to the plaintiff and successful lien-holders shall not exceed in the aggregate an amount equal to twenty-five per cent. of the amount of the judgment besides actual disbursements, and shall be in addition to the amount of the judgment, and shall be apportioned and borne in such proportion as the Judge or other officer who tries the action may direct. 59 V. c. 35, s. 41.

Limit of costs to plaintiff.

42. Where the costs are awarded against the plaintiff or other persons claiming the lien, such costs shall not exceed an amount in the aggregate equal to twenty-five per cent. of the claim of the plaintiff and other claimants, besides actual disbursements, and shall be apportioned and borne as the Judge or said other officer may direct. 59 V. c. 35, s. 42.

Limit of costs to be awarded against plaintiffs.

43. In case the least expensive course is not taken by a plaintiff under this Act the costs allowed to the solicitor shall in no case exceed what would have been incurred if the least expensive course had been taken. 59 V. c. 35, s. 43.

Costs where least expensive course not taken.

44. Where a lien is discharged or vacated under section 27 of this Act or where in an action, judgment is given in favour of or against a claim for a lien, in addition to the costs of an action, the Judge or other officer may allow a reasonable amount for costs of drawing and registering the lien or for vacating the registration of the lien. 60 V. c. 24, s. 11 (2).

Costs of drawing and registering and vacating registration of lien.

45. The costs of and incidental to all applications and orders made under this Act and not otherwise provided for shall be in the discretion of the Judge or officer to whom the application or order is made. 60 V. c. 24, s. 11 (1).

Costs not otherwise provided for.

46—(1.) Excepting in actions tried by a Judge of the High Court the Judge or other officer who tries the action shall, where money has been paid into court and the time for payment out arrives, forward a requisition for cheques with a certified copy of his judgment, and (when one is made) of the report on sale, to the Accountant of the Supreme Court of Judicature who shall, upon receiving the said requisition and copy of the judgment and report (if any) make out and return to the said Judge or officer cheques for the amounts payable to the persons specified in the requisition, and the said Judge or officer on receipt of said cheques shall distribute them to the persons entitled. 59 V. c. 35 s. 45 ; 60 V. c. 24, s. 12.

Payments out of court.

Fees not to be payable on payments out of court.

(2.) No fees or stamps shall be payable on any cheques or proceedings to pay money into court or obtain money out of court, in respect of a claim of lien, but sufficient postage stamps to prepay a return registered letter shall be enclosed with every requisition for cheques. 59 V. c. 35, s. 46; 60 V. c. 24, s. 13.

Form of judgment in favour of lienholders.

47. All judgments in favour of lienholders shall adjudge that the person or persons personally liable for the amount of the judgment, shall pay any deficiency which may remain after sale of the property adjudged to be sold, and whenever on a sale of any property to realize a lien under this Act sufficient to satisfy the judgment and costs is not realized therefrom, the deficiency may be recovered by execution against the property of such person or persons, 59 V. c. 35, s. 47.

Personal judgment when claim for lien fails.

48. Whenever in an action brought under the provisions of this Act any claimant shall fail for any reason to establish a valid lien he may nevertheless recover therein a personal judgment against any party or parties to the action for such sum or sums as may appear to be due to him and which he might recover in an action on contract against such party or parties. 59 V. c. 35, s. 48.

Forms.

49. The forms in the Schedule hereto, or forms similar thereto or to the like effect, may be adopted in all proceedings under this Act. 59 V. c. 35, s. 49.

Liens arising before Act comes into force.

50. This Act shall not apply to liens arising before the 7th day of April, 1896, excepting that where no action has been commenced or proceeding instituted to realize a lien arising before the said day the procedure herein directed shall be adopted to realize the same. 59 V. c. 35, s. 50.

Mechanics entitled to lien on a chattel may sell the chattel if (after three months) payment is not made.

51.—(1) Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement in its properties or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists, but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right in addition to all other remedies provided by law, to sell by auction the chattel or thing in respect of which the lien exists, on giving one week's notice by advertisement in a newspaper published in the municipality in which the work was done, or in case there is no newspaper published in such municipality, then in a newspaper published nearest thereto, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last

known place of residence (if any) of the owner, if he be a resident of such municipality.

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale, and shall upon application pay over any surplus to the person entitled thereto. 59 V. c. 35, s. 51. Application of proceeds of sale.

52. The provisions of this Act so far as they affect railways under the control of the Dominion of Canada are only intended to apply so far as the Legislature of this Province has authority or jurisdiction in regard thereto. 59 V. c. 35, s. 6 (4). How far Act applies to railways.

SCHEDULE.

FORM 1.

(Section 17.)

Claim of Lien for Registration.

A. B. (name of claimant) of (here state residence of claimant,) (if so, as assignee of, stating name and residence of assignor) under *The Mechanics' and Wage-Earners' Lien Act* claims a lien upon the estate of (here state the name and residence of owner of the land upon which the lien is claimed,) in the undermentioned land in respect of the following work [service or materials] that is to say (here give a short description of the nature of the work done or materials furnished and for which the lien is claimed,) which work [or service] was [or is to be] done [or materials were furnished] for (here state the name and residence of the person upon whose credit the work is done or materials furnished,) on or before the day of

The amount claimed as due [or to become due] is the sum of \$.

The following is the description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

When credit has been given, insert: The said work was done [or materials were furnished] on credit, and the period of credit agreed to expired [or will expire] on the day of , 18

Dated at this day of , A.D. 18
(Signature of claimant.)

FORM 2.

(Section 17.)

Claim of Lien for Wages, for Registration.

A. B. (name of claimant) of (here state residence of claimant,) (if so, as assignee of, stating name and residence of assignor) under *The Mechanics' and Wage-Earners' Lien Act* claims a lien upon the estate of (here state the name and residence of the owner of land upon which the lien is claimed) in the undermentioned land in respect of days' work performed

thereon while in the employment of (*here state the name and residence of the person upon whose credit the work was done*) on or before the day of

The amount claimed as due is the sum of \$

The following is the description of land to be charged, (*here set out a concise description of the land to be charged sufficient for the purpose of registration.*)

Dated at this day of
(*Signature of claimant.*)

FORM 3.

(*Section 18.*)

Claim of Lien for Wages by Several Claimants.

The following persons under *The Mechanics' and Wage-Earners' Lien Act* claim a lien upon the estate of (*here state the name and residence of the owner of land upon which the lien is claimed*) in the undermentioned land in respect of wages for labor performed thereon while in the employment of (*here state name and residence or names and residences of employers of the several persons claiming the lien.*)

A. B. of (residence)	\$	for	days' wages.
C. D. " "	\$	for	days' wages.
E. F. " "	\$	for	days' wages.

The following is the description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration.*)

Dated at this of
(*Signatures of the several claimants.*)

FORM 4.

(*Section 17.*)

Affidavit Verifying Claim for Registration.

I, A. B., named in the above (*or annexed*) claim, do make oath that the said claim is true.

Or, We, A. B. and C. D., named in the above (*or annexed*) claim, do make oath, and each for himself says that the said claim, so far as relates to him, is true.

[*Where affidavit made by agent or assignee a clause must be added to the following effect:—I have full knowledge of the facts set forth in the above (or annexed) claim.*]

Sworn before me at , in the
county of , this
day of , A.D. 18

Or, The said A. B. and C. D. were severally
sworn before me at , in the county
of , this day of ,
A.D. 18

Or, The said A. B. was sworn before me
at , in the county of ,
this day of , A.D. 18

FORM 5.

(Section 31.)

Affidavit Verifying Claim in Commencing an Action.

(Style of Court and Cause.)

I, _____, make oath and say, that I have read, or heard read, the foregoing statement of claim, and I say that the facts therein set forth are, to the best of my knowledge and belief, true, and the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all the sums of money or goods or merchandise to which (*naming the debtor*) is entitled to credit as against me.

59 V. c. 35, Sched. Forms 1-5.

FORM 6.

(Sections 23 and 24.)

Certificate for Registration.

(Style of Court and Cause.)

(Date _____.)

I certify that the above named plaintiff has commenced an action in the above Court to enforce against the following land (*describing it*) a claim of Mechanics' Lien for \$ _____.

60 V. c. 15, Sched. A (76).

FORM 7.

(Section 31.)

Defence.

(Style of Court and Cause.)

A. B., _____ disputes that the plaintiff is now entitled to a mechanic's lien on the following grounds: (*Setting forth the grounds shortly.*)

- (a) The lien has not been prosecuted in due time as required by statute.
- (b) That there is nothing due to the plaintiff.
- (c) That the plaintiff's lien has been vacated and discharged.
- (d) That there is nothing due by _____ (*the owner*) for the satisfaction of the plaintiff's claim.

Delivered on the _____ day of _____ by *A. B.* in person, whose address for service is (*stating address within two miles of the court house*), or

Delivered on the _____ day of _____ by *Y. Z.*, solicitors for the said *A. B.*

NOTE.—If the owner does not dispute the lien entirely and only wishes to have the accounts taken he may use Form 8.

FORM 8.

(Section 31.)

Defence where there are no matters disputed or where the matters in dispute are matters of account.

(Style of Court and Cause.)

A. B. admits that the plaintiff is entitled to a lien and claims that the following is a just and true statement of the account in question :—

Amount of contract price for work contracted to be performed
by *E. F.* as plumber on the lands in question herein..... \$500 00

Amounts paid on Account.

June 1st, 1889, paid <i>E. F.</i>	\$200 00
July 1st, 1889, paid <i>G. H.</i> and <i>I. K.</i> , sub-contractors of <i>E. F.</i>	100 00
	<hr/> \$300 00

Balance admitted to be due..... \$200 00

For satisfaction of lien of plaintiff and other lien holders (*as the case may be*) *A. B.*, before action tendered to the plaintiff \$ in payment of his claim and now brings into Court \$ and submits that that amount is sufficient to pay the plaintiff's claim, and asks that this action be dismissed as against him with costs.
Delivered, etc.

FORM 9.

(Section 49.)

Affidavit of Owner Verifying Account.

(Style of Court and Cause.)

I, *A. B.*; of , being the owner of the lands in question in this action, make oath and say: That the account set forth in the foregoing defence is a just and true account of the amount of the contract price agreed to be paid by me to *E. F.* for the work contracted to be done by him on the lands in question.

The said account also justly and truly sets forth the payments made by me on account thereof, and the person or persons to whom the same were made; and the balance of [\$200] appearing by such account to be still due and payable is the just and true sum now due and owing by me in respect of my contract with the said *E. F.*

Sworn, etc.

FORM 10.

(Section 36.)

Notice of Trial.

(Style of Court and Cause.)

Take notice that this action will be tried at the Court House, in the Town of , in the County of , on the day of by and at such time and place the

will proceed to try the action and all questions which arise in or which are necessary to be tried to completely dispose of the action and to adjust the rights and liability of the persons appearing before him, or upon whom this notice of trial has been served, and at such trial he will take all accounts, make all inquiries and give all directions and do all things necessary to try and otherwise finally dispose of this action, and of all matters, questions, and accounts arising in said action and will give all necessary relief to all parties.

And further take notice that if you do not appear at the trial and prove your claim, if any, or prove your defence, if any, to the action the proceedings will be taken in your absence and you may be deprived of all benefit of the proceedings and your rights disposed of in your absence.

This is a Mechanics' Lien action brought by the above named plaintiff against the above named defendants to enforce a Mechanics' Lien against the following lands :—(*set out description of lands.*)

This notice is served by, etc.

FORM 11.

(Section 49.)

Statement of Account by Lienholders, not parties to the action.

(Style of Court and Cause.)

E. F.

Dr. to G. H.

1889.

Jan. 1,	To 12 doz. brackets.....	\$12 00
Feb. 3,	“ 50 lbs. of nails.....	5 00
Oct. 3,	“ 60 sheets of glass ..	40 00
		<hr/>
		\$57 00

Cr.

1889.

Feb. 4,	By cash.....	\$ 4 00
June 5,	“ goods	20 00
		<hr/>
		\$24 00
		<hr/>
		\$33 00

FORM 12.

(Section 49.)

Affidavit of Lienholder Verifying Claim.

(Style of Court and Cause.)

I, *G. H.* of (*address and occupation*), make oath and say :—I have in the foregoing account (*or in the account now shown to me marked A*) set forth a just and true account of the amount due and owing to me by *E. H.* (*the owner*) [*or by E. F., who is a contractor with the defendant, L. G. (the owner).*] of the lands in question, and I have in the said account given credit for all sums in cash or merchandise or otherwise to which the said *E. F.* is justly entitled to credit in respect of the said account and the sum of \$33 appearing by such account to be due to me as the amount (*or balance*) of such account is now justly due and owing to me.

Sworn, etc.

FORM 13.

(Section 35.)

Judgment.

In the High Court of Justice.

*Monday, the 10th July, 1896.**Name of Judge or officer.**William Spencer, Plaintiff,*

and

Thomas Burns, Defendant.

This action coming on for trial before
 in at
 upon opening of the matter and it appearing that the following persons have been duly served with notice of trial herein, (*set out names of all persons served with notice of trial*) and all such persons (*or as the case may be*) appearing at the trial [*if so* and the following persons not having appeared *set out names of non-appearing persons*] and upon hearing the evidence adduced and what was alleged by counsel for the plaintiff and for C. D. and E. F. and the defendant [*if so* and by A. B. appearing in person.

1. This Court doth declare that the plaintiff and the several persons mentioned in the first schedule hereto are respectively entitled to a lien under *The Mechanics' and Wage Earners' Lien Act*, upon the lands described in the second schedule hereto, for the amounts set opposite their respective names in the 2nd, 3rd and 4th columns of the said 1st schedule, and the persons primarily liable for the said claims respectively are set forth in the 5th column of the said schedule.

2. [And this Court doth further declare that the several persons mentioned in schedule 3 hereto are also entitled to some lien, charge or incumbrance upon the said lands for the amounts set opposite their respective names in the 4th column of the said schedule 3, *according to the fact.*]

3. And this Court doth further order and adjudge that upon the defendant (A. B. the owner) paying into court to the credit of this action the sum of (gross amount of liens in schedules 1 and 3 for which owner is liable) on or before the day of next, that the said liens in the said 1st schedule mentioned be and the same are hereby discharged, [and the several persons in the said 3rd schedule are to release and discharge their said claims and assign and convey the said premises to the defendant (owner) and deliver up all documents on oath to the said defendant (owner) or to whom he may appoint] and the said moneys so paid into court are to be paid out in payment of the claims of the said lien holders (*if so, and incumbrancers*).

4. But in case the said defendant (owner) shall make default in payment of the said moneys into court as aforesaid, this Court doth order and adjudge that the said lands be sold with the approbation of the Master of this Court at and that the purchase money be paid into court to the credit of this action and that all proper parties do join in the conveyances as the said Master shall direct.

5. And this Court doth order and adjudge that the said purchase money be applied in or towards payment of the several claims in the said 1st [and 3rd] schedule[s] mentioned as the said Master shall direct, with subsequent interest and subsequent costs to be computed and taxed by the said Master.

6. And this Court doth further order and adjudge that in case the said purchase money shall be insufficient to pay in full the claims of the several persons mentioned in the said 1st schedule, the persons primarily liable for such claims as shewn in the said 1st schedule do pay to the persons to whom they are respectively primarily liable the amount remaining due to such persons forthwith after the same shall have been ascertained by the said Master.

7. [And this Court doth declare that _____ have not proved any lien under *The Mechanics' and Wage Earners' Lien Act*, and that they are not entitled to any such lien, and this Court doth order and adjudge that the claims of liens respectively registered by them against the lands mentioned in the said 2nd schedule be and the same are hereby discharged, *according to the fact.*]

SCHEDULE 1.

Names of lien holders entitled to mechanics' liens.	Amount of debt and interest (if any).	Costs.	Total.	Names of primary debtors.

(Signature of officer issuing judgment.)

SCHEDULE 2.

The lands in question in this matter are

(Set out by a description sufficient for registration purposes.)

(Signature of officer issuing judgment.)

SCHEDULE 3.

Names of persons entitled to incumbrances other than mechanics' liens.	Amount of debt and interest (if any).	Costs.	Total.

(Signature of officer issuing judgment.)

FORM 14.

(Section 27.)

Certificate Vacating Lien.

(Style of Court and Cause.)

Date

I certify that the defendant *A.B. (the owner)* has paid into court to the credit of this cause all money due and payable by him for the satisfaction of the liens of the plaintiff and *E.F., G.H., I.J.* and *K.L.* and their liens are hereby vacated and discharged so far as the same affect the following lands (*describe lands*).

(Signature of Master or Referee.)

—

FORM 15.

(Section 27.)

Certificate Vacating Lien.

(Style of Court and Cause.)

Date

I certify that I have inquired and find that the plaintiff is not entitled to a mechanics' lien upon the lands of the defendant *A.B. (the owner)* and his claim of lien is hereby vacated and discharged so far as the same affects the following lands (*describe lands*).

(Signature of Master or Referee.)

59 V. c. 35, Schedule, Forms 13, 14.

CHAPTER 154.

The Woodman's Lien for Wages Act.

SHORT TITLE, s. 1.
 INTERPRETATION, s. 2
 TERRITORY TO WHICH ACT APPLIES,
 s. 3.
 AGREEMENTS WAIVING RIGHTS UNDER
 ACT VOID, s. 4.
 WHO ENTITLED TO LIEN, s. 5.
 STATEMENT OF LIEN TO BE FILED,
 ss. 6-8.
 SALE NOT TO AFFECT LIEN, s. 9.
 ENFORCEMENT OF LIEN :
 Action and attachment, ss. 10-18.
 Transit within district not to be
 prevented, s. 19.
 Separation of logs, s. 20.
 Restoration of logs upon security,
 s. 21.
 Notice of dispute, s. 22.
 Payment into court, s. 23.
 Advertisement for claims, s. 24.

Adjudication upon, ss. 25-27.
 Sale and distribution of proceeds,
 ss. 28, 29.
 Discharge of lien if nothing done,
 s. 30.
 Costs, s. 31.
 Distribution of surplus, s. 32.
 Where action not prosecuted,
 s. 33.
 Adding parties, s. 34.
 Other remedies not affected, s. 35.
 Lien holders may join, s. 36.
 Transfer of proceedings to Dis-
 trict Court, s. 37.
 Where actions commenced in
 several courts, s. 38.
 Rules of procedure, s. 39.
 MALICIOUS PROCEEDINGS, s. 40.
 WAGES, HOW TO BE PAID, ss. 41-43.

HER MAJESTY, by and with the advice and consent of
 the Legislative Assembly of the Province of Ontario,
 enacts as follows :—

1. This Act may be cited as "*The Woodman's Lien for Wages Act.*" 57 V. c. 38, s. 1 (1). Short title.

2. Where the words following occur in this Act they shall be construed in the manner hereinafter mentioned unless a contrary intention appears :— Interpreta-
tion.

1. The words "logs or timber" shall mean and include logs, timber, cedar posts, telegraph poles, railroad ties, tan bark, shingle bolts or staves or any of them ; "Logs or
timber."

2. The words "labour, service or services" shall mean and include cutting, skidding, felling, hauling, scaling, banking, driving, running, rafting or booming any logs or timber and any work done by cooks, blacksmiths, artisans and others usually employed in connection therewith ; "Labour,
service or
services."

3. The word "person" in section 5 of this Act shall include cooks, blacksmiths, artisans and all others usually employed in connection with such labour and services ; "Person."

"Judge."

4. The word "Judge" where used in this Act shall include the Stipendiary Magistrate where he presides over or holds Division Courts, and the word "bailiff" shall include a constable who under *The Division Courts Act* may execute an attachment or perform other service. 54 V. c. 22, s. 2.

"Bailiff."

Rev. Stat.
c. 60.

Application of
Act.

3. This Act shall apply to the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay and Rainy River, and to the Provisional County of Haliburton. 57 V. c. 38, s. 1 (2-3); 59 V. c. 36, s. 1.

Contracts
waiving
application of
Act to be void.

4.—(1) Every agreement or bargain, verbal or written, express or implied, which has heretofore been made or entered into, or which may hereafter be made or entered into, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act, by which it is agreed that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of any person entering into such agreement, is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic, or other person. 59 V. c. 38, s. 3.

(2) This section shall not apply to any foreman, manager, officer or other person whose wages are more than \$3 a day. 59 V. c. 38, s. 12.

Lien for
labour on logs
or timber.

5.—(1) Any person performing any labour, service or services in connection with any logs or timber in the said Districts or Provisional County, shall have a lien thereon for the amount due for such labour, service or services, and the same shall be deemed a first lien or charge on such logs or timber, and shall have precedence of all other claims or liens thereon, except any lien or claim which the Crown may have upon such logs or timber for or in respect of any dues or charges, or which any timber slide company or owner of slides and booms may have thereon for or in respect of tolls. 54 V. c. 22, s. 3; 57 V. c. 38, s. 2; 59 V. c. 36, s. 2.

Contractors,
with respect
to labour or
services to be
performed on
timber got out
for export.

(2) Any contractor who has entered into any agreement under the terms of which he has cut, removed, taken out and driven, for any licensee of the Crown by himself or by others in his employ, any logs or timber into the waters at or near Lake Superior, the Georgian Bay, Lake Huron or the Saint Mary River, for export in the log out of the Province of Ontario, shall be deemed to be a person performing labour, service or services upon logs or timber within the meaning of this section, and such cutting, removal, taking out and driving shall be deemed to be the performance of labour, service or services within the meaning of this section. 59 V. c. 36, s. 4 (1) part.

Lien to con-
tinue on state-
ment being
filed in Dis-
trict Court.

6.—(1) The lien provided for in section 5 shall not continue to be a charge on the logs or timber after the time within

which the statement of claim hereinafter provided for is required to be filed unless such statement, verified upon oath by the person claiming such lien or some one duly authorized on his behalf, shall be filed as is hereinafter directed.

(2) Such statement shall be in writing and, except as is hereinafter authorized, shall be filed in the office of the Clerk of the District Court of the Provisional Judicial District in which the labour or service or some part thereof has been performed.

(3) Where such labour or services have been performed upon any logs or timber got out to be run down or which have been run down any of the rivers or streams flowing into the Georgian Bay, Lake Huron, Lake Superior, Lake of the Woods, Rainy Lake or Rainy River or Pigeon River, such statement may, at the option of the claimant, be filed in the office of the clerk of the District Court of the district in which the labour or service or some part thereof has been performed as aforesaid or in the office of the Clerk of the District Court of the district wherein the drive terminates or reaches the waters of the lakes, bays or rivers hereinbefore specifically named. Proviso.

(4) Where the right to take proceedings under this Act to enforce any lien, arises in the District of Rainy River, the statement of claim may be filed in the office of the Deputy Clerk at Rat Portage of the District Court, and the expression "Clerk of the Court," "Clerk of the District Court," or "Clerk" in this Act shall be deemed to include the said deputy clerk. Clerk of court at Rat Portage. 54 V. c. 22, s. 4.

(5) Where the right to take proceedings under this Act to enforce any lien, arises in the district of Muskoka, the statement of claim may be filed in the office of the Deputy Clerk at Bracebridge of the District Court, and the expression "Clerk of the Court," "Clerk of the District Court" or "Clerk" in this Act shall be deemed to include the Deputy Clerk at Bracebridge of the District Court. Filing claim, etc., when right to enforce lien arises in Muskoka. 57 V. c. 38, s. 3.

(6) Where the right to take proceedings under this Act to enforce any lien arises in the Provisional County of Haliburton, the statement of claim may be filed in the office of the Clerk of the County Court of the County of Victoria, and the expression "Clerk of the Court," "Clerk of the District Court," or "Clerk" in this Act shall be deemed to include the Clerk of the County Court of the county of Victoria, and "District Court" shall include the said County Court. Filing claim, etc., when right to enforce lien arises in Haliburton. 59 V. c. 36, s. 3.

7. Such statement shall set out briefly the nature of the debt, demand or claim, the amount due to the claimant as nearly as may be, over and above all legal set-offs or counter-claims, and a description of the logs or timber upon or against which the lien is claimed, and may be in the form set out in the Schedule to this Act or to the like effect. Statement of lien. 54 V. c. 22, s. 5.

When statement to be filed.

8.—(1) In the case of any contractor coming within the terms of subsection 2 of section 5 the statement of claim shall be filed on or before the 1st day of September next following the performing of the labour service or services to which such statement refers. 59 V. c. 36, s. 4 (1) part.

(2) In other cases if such labour, service or services be performed between the 1st day of October and the 1st day of April next thereafter, the statement of claim shall be filed on or before the 20th day of April next thereafter, but if such labour, service or services be performed on or after the 1st day of April and before the 1st day of October in any year, then such statement shall be filed within twenty days after the last day such labour, service or services were performed. 54 V. c. 22, s. 6, part.

Sale not to affect lien.

9. No sale or transfer of the logs or timber upon which a lien is claimed under this Act during the time limited for the filing of such statement of claim and previous to the filing thereof, or after the filing thereof and during the time limited for the enforcement thereof, shall in any wise affect such lien but such lien shall remain and be in force against such logs and timber in whosever possession the same shall be found. 54 V. c. 22, s. 6 part.

Enforcement of liens by suit in District or Division Courts.

10. Any person or persons having a lien upon or against any logs or timber may enforce the same by suit, where the claim does not exceed \$200, in the Division Court within whose jurisdiction the said logs or timber or any part thereof may be situated at the time of the commencement of the suit, or where the claim exceeds \$200, in the proper District Court where such statement of lien is filed, and such suit may be commenced to enforce such lien, if the same be due, immediately after the filing of such statement, or if credit has been given immediately after the expiry of the period of credit, and such lien claim shall cease to be a lien upon the property named in such statement unless the proceedings to enforce the same be commenced within 30 days after the filing of the statement of claim, or after the expiry of the period of credit. In all such suits the person, company or corporation liable for the payment of such debt or claim shall be made the party defendant. 54 V. c. 22, s. 7 (1).

Procedure.

11. There shall be attached to or endorsed upon the writ or summons a copy of the lien claim filed as hereinbefore provided and no other statement of claim shall be necessary unless ordered by the Court or Judge, and no pleadings or notices of dispute or defence other than such as are required in a suit or proceeding in the Division Court shall be necessary whether the suit be brought in the District Court or in the Division Court. In case no dispute is filed, judgment may be signed and execution issued according to the practice of the Division Court. The Court or Judge may order any particulars to be given or any

proper or necessary amendments to be made, or may add or strike out the names of parties at any time and may set aside judgment and permit a defence or dispute to be entered or filed, on such terms as to him shall appear proper. The writ shall be in the form as nearly as may be of that in use in the court in which it is issued, but the practice thereafter shall follow as nearly as may be that of the Division Courts. Writs may be served anywhere in the Province in the same manner as in other cases, and the judgment shall declare that the same is for wages, the amount thereof and costs, and that the plaintiff has a lien therefor on the property described when such is the case. 54 V. c. 22, s. 7 (2).

12. Where an execution has issued and has been placed in the Sheriff's hands for execution and no attachment has been issued, the proceedings for the enforcement of the lien shall be by sale under the execution, and the proceedings relating to proof of other claims and the payment of money into court and the distribution of the moneys and otherwise shall, as far as practicable, be the same as is hereinafter provided for proceeding upon and subsequent to an attachment. 54 V. c. 22, s. 7 (3).

Procedure
subsequent to
execution in
certain cases.

13. Where an attachment issues in the first instance, either from the District Court or Division Court, the statement of claim and defence and proceedings to judgment may be the same, as hereinbefore provided, where a suit has been begun by writ or summons; and where an attachment issues after proceedings have been begun by writ or summons the proceedings shall continue and be carried to judgment under the writ or summons, except such as are necessary to be taken under the attachment. 54 V. c. 22, s. 7 (4).

Procedure
where attach-
ment issues.

14. The forms of attachment shall be as nearly as may be the same as were formerly in use in the District Courts or are in use in the Division Courts. The district Judges and Stipendiary Magistrates of said districts, or a majority of them, may jointly prepare and adopt forms of writs, summonses, attachments and other forms for the more convenient carrying out of the provisions of this Act. 54 V. c. 22, s. 7 (5).

Form of
attachment.

15.—(1) In any case, whether commenced by writ or summons or attachment, and whether in a Division or District Court, the Judge may direct that the same shall be disposed of summarily by him in chambers without waiting for the regular sittings of the Court, upon such terms as to notice and otherwise as the order shall provide, and the same may be so heard and disposed of.

Summary dis-
posal of cases

(2) The Judge may also entertain in chambers any application to set aside an attachment or seizure or to release logs that have been seized, and may summarily dispose of the same. 54 V. c. 22, s. 7 (6, 7).

When attachment to issue from Division Court.

16 Where the amount of any claim, filed as aforesaid does not exceed \$200, and is not less than \$10, upon the production and filing of a copy of such claim and affidavit and of an affidavit made and sworn by the claimant of the amount of the claim due and owing, and showing that the same has been filed as aforesaid and stating that

- (a) He has good reason to believe and does believe that the logs or timbers are about to be removed out of the Province of Ontario, or
- (b) That the person indebted for the amount of such lien has absconded from the Province, with intent to defraud or defeat his creditors, or
- (c) That the saw logs or timber are about to be cut into lumber of other timber so that the same cannot be identified,
- (d) And that he is in danger of losing his said claim, if attachment do not issue,

and if affidavits corroborating the affidavit of the plaintiff in respect of clauses (a), (b) or (c), be also filed, then the Clerk of the proper Division Court shall issue a warrant under his hand and seal as in the case of an attachment under section 257 of *The Division Courts Act*, directed to the Bailiff of the Division Court commanding such bailiff to attach, seize, take and safely keep such logs or timber, or a sufficient portion thereof to secure the sum mentioned in the warrant, and the costs of the suit, and of the proceedings to enforce the lien, and to return the warrant forthwith to the court out of which the same issued. 54 V. c. 22, s. 8.

Rev. Stat.
c. 60.

When attachment to issue out of District Court.

17.—(1) Where the amount claimed exceeds \$200, upon the filing of a copy of such claim and affidavit, the Clerk of the District Court of the district where the action may be brought, shall upon the filing of an affidavit or solemn affirmation made by the claimant and showing such facts as would authorise the issue of an attachment under the preceding section and such affidavits in corroboration as is provided in the preceding section, issue a writ of attachment directed to the Sheriff of the district commanding him to attach, seize and take and safely keep the said logs or timber or such portion of them as may be necessary to satisfy the amount claimed and the costs of the suit and of the proceedings to enforce the lien.

(2) Where additional claims are made, or the amount of claim is increased, or a sufficient seizure has not been made, a second or subsequent seizure may be made either under execution or attachment. 54 V. c. 22, s. 9.

Warrant or writ to be served on defendant and the owner of logs.

18.—(1) The said warrant or writ of attachment shall also, where no writ or summons has issued, summon the defendant to appear before the District Court or Division Court out of

which the attachment has issued, and a copy of the writ of attachment shall be served upon the defendant, and if the defendant in such attachment is not the owner of the logs or timber described in the warrant or writ then a copy of the writ shall also be served upon the owner of the said logs or timber or upon the person or agent in whose possession, custody or control for him they may be found.

(2) Where the defendant or owner of the logs or timber cannot be found within the district, and there is no one in possession of the logs or timber, then a copy of the warrant or writ of attachment shall be forwarded to the Sheriff of any county or district or the Bailiff of any Division Court, in the Province of Ontario, within whose shrievalty or jurisdiction, the defendant and owner or either of them, as the case may be, resides or may be found, and such copy of the warrant or writ of attachment may be served by such Sheriff or Bailiff upon such defendant or owner of the logs or timber. The owner may, on his own application, or by direction of a Judge, be made a party-defendant at the trial.

Service where no one in possession of logs.

(3) In case the defendant or owner cannot be found within the Province, or the owner cannot be ascertained and no agent or person is in possession for the owner, the writ or warrant may be served in such manner as the Judge shall by order direct, but when the writ is served upon an agent or other person in possession as aforesaid, the order of the Judge allowing the said service shall be necessary.

When defendant or owner not in Province, etc.

(4) Where the service has not been personal upon either the defendant or owner, and where a proper defence has not been made, the Judge may, in his discretion, admit the defendant and owner, or either of them to make full defence and may make such order in the premises as may be reasonable and just to all parties.

Admission of parties to make defence.

(5) The Sheriff or Bailiff shall, before making any service, be entitled to demand the payment of a sum sufficient to cover the amount of his necessary disbursements in effecting the same. 54 V. c. 22, s. 10.

Payment of officer's disbursements.

19. No Sheriff or Bailiff shall seize upon or detain any logs or timber under the provisions of this Act when in transit from the place where cut to the place of destination when such place of destination is within any of the said districts in which proceedings have been commenced, but in case such logs or timber are so in transit or are in the possession of any booming company or other person or corporation for the purpose of being driven or sorted and delivered to the owners or to satisfy any statutory lien, then attachment of said logs or timber may be made by serving a copy of said attachment upon the person or corporation driving or holding the same, who shall from the time of such service be deemed to hold the same both on his or their own behalf and for the said sheriff or bailiff to the extent of

Logs or timber in transit within district not to be detained.

the lien, until the logs or timber can be driven and sorted out; and when driven or sorted out, the sheriff or bailiff may receive the said logs or timber from such person or corporation, and the statutory lien of such person or corporation shall not be released by the holding of such sheriff or other officer. 54 V. c. 22, s. 11 (1).

Separation of
logs.

Rev. Stat.
c. 143.

20. The claimant or plaintiff in any suit and the Sheriff or Bailiff or other officer shall, when necessary, be entitled, under order of the Judge, to take any proceedings which the owner of any logs may take under *The Saw Logs Driving Act* for the purpose of procuring the separation of any logs so seized by the Sheriff or other officer under this Act from other logs with which they have become intermixed, or a sale may be made without such separation if the Judge so directs. 54 V. c. 22, s. 11 (2).

Sheriff or
Bailiff to re-
store posses-
sion upon exe-
cution of
bond.

21. In case of an attachment, if the owner of the logs or timber or any person on his behalf shall execute and file with the Clerk of the Court out of which the attachment has issued a good and sufficient bond to the person claiming the lien, executed by two sureties and approved by the said clerk and conditioned for the payment of all damages, costs, charges, disbursements and expenses that may be recovered by the claimant in such proceedings, together with the amount for which a lien is claimed in any other suit, if any, the Clerk shall issue an order to the Sheriff or Bailiff having in charge the logs or timber directing their release, and upon service of such order upon the Sheriff or Bailiff he shall release the same. 54 V. c. 22, s. 12.

Persons served
to enter
notice of dis-
pute.

22.—(1) Any person who shall have been served with a copy of the warrant or writ of attachment under the preceding sections, and who may desire to dispute the same shall within 14 days after such service enter in the court in which proceedings are pending a notice that he disputes the claim of lien in whole or in part. 54 V. c. 22, s. 13.

If no notice of
dispute enter-
ed judgment
may be enter-
ed.

(2) If no notice of dispute be entered under this section judgment may be entered as in the case of default, and the practice or procedure may be the same as in a suit begun by writ or summons. 54 V. c. 22, s. 14

Persons
served with
attach ment
may pay
amount claim-
ed into court.

23. The defendant may, at any time after service of the writ or attachment and before the sale of the logs or timber, pay into court the amount for which a lien is claimed in the suit, together with the amount for which a lien is claimed in any other suit (if any), and also the costs of the proceedings to the date of such payment to be taxed by the Clerk of the Court if so required, and the person making such payment shall thereupon be entitled to a certificate vacating the said lien; and upon said certificate being filed with the Clerk of

the District Court in which the original statement of claim was filed, the said lien shall be vacated and all further proceedings thereon shall cease, and the person making such payment shall further be entitled to an order directing the delivery up of the logs or timber seized under the attachment, or the cancellation of any bond given under section 21 of this Act. 54 V. c. 22, s. 15.

24.—(1) After the expiration of the time hereinbefore named within which notice of dispute may be entered, the Judge shall, upon the application of the claimant, issue an appointment naming a day upon which all persons claiming a lien on the logs or timber shall appear before the Judge in person or by their solicitor or agent, for the adjustment of their claims and the settlement of accounts, and the said appointment shall be served upon the defendants and upon the owner, if the Judge so directs, and shall also, if the Judge so directs, be published once a week for two weeks before the day named in said appointment in a newspaper published in the district in which proceedings are pending if a newspaper be published therein, and if not then in a newspaper published in an adjoining district.

Day to be fixed by advertisement for hearing parties interested, taking accounts, etc.

(2) Provided further that a copy of such appointment shall be mailed by registered letter to every holder of a claim known to the plaintiff as such holder at least two weeks before the day named in the appointment, directed to the post office address of such claimant where the same is known, and if not known then to his last known address. 54 V. c. 22, s. 16.

Appointment to be mailed to lienholders.

25.—(1) Upon the day named in the said appointment and advertisement the persons served with a copy thereof and all other persons claiming a lien on the said logs or timber who have prior to the said date filed with the Clerk of the Court a notice claiming such lien on the said logs or timber and stating the nature and amount of such claim, shall attend before the Judge named in the appointment and advertisement.

Parties filing notices of disputes or claims to attend on day named in appointment.

(2) Where claims are brought in pursuant to notice they may be established *prima facie* by affidavit, but any party interested shall be at liberty to cross-examine the deponents, and may require that the claim be established in open Court as in other cases. 54 V. c. 22, s. 17.

Proof of claims.

26. The Judge shall hear all parties and take all accounts necessary to determine the amounts if any due to them or any of them, or of any other holders of liens who may be called by the Judge to prove their lien, and shall tax to them their costs, and determine by whom the same shall be payable, and settle their priorities and generally determine all such matters as may be necessary for the adjustment of the rights of the several parties. 54 V. c. 22, s. 18.

Judge to hear all parties, take accounts, etc.

Order to be made by Judge at conclusion of enquiry.

27. At the conclusion of the enquiry the Judge shall make his report and order, which shall state his findings and direct the payment into the Court in which proceedings are pending of the amounts, if any, so found due and the costs, within ten days thereafter and in default of such payment that the logs or timber shall be sold by the sheriff or bailiff, for the satisfaction of the amounts found due to the several parties upon the enquiry and costs. 54 V. c. 22, s. 19.

In default of payment into Court logs or timber to be sold.

28.—(1) In default of payment into Court under the preceding section within the time named in the order therefor, the said logs or timber shall within twenty days thereafter be sold by the Sheriff or Bailiff holding the same in the same manner and subject to the same provisions of law as goods seized or taken in execution, unless the Judge shall direct that additional publicity be given to the sale, and the amount realized by such sale shall, after deducting the expenses thereof payable to the sheriff or bailiff, be paid into the Court in which the proceedings are pending, and shall, upon the application of the several parties found to be entitled thereto under the order of the Judge be paid out to them by the Clerk of the said Court.

Judge to apportion.

(2) Provided where the amount realized upon the sale shall not be sufficient to pay the claims in full and costs, the Judge shall apportion the amount realized pro rata among the different claimants. 54 V. c. 22, s. 20.

Certificate of balance due after distribution to be entered as a judgment.

29. If after such sale and distribution of the proceeds thereof under the preceding section any balance shall remain due to any person under the said order of the Judge the Clerk of the Court shall upon application of such person give to him a certificate that such amount remains due, which certificate may be entered as a judgment in the District or Division Court having jurisdiction, against the person or persons by whom the claim was directed to be paid, and execution may be issued thereupon as in the case of other judgments in the District or Division Courts. 54 V. c. 22, s. 21.

Where nothing found due on enquiry, lien to be discharged.

30. Where nothing shall be found due upon the several claims filed under section 25 of this Act or upon the lien or liens with respect to which proceedings have been taken, the Judge may direct by his said order that the lien or liens be discharged and the logs or timber released or the security given therefor delivered up and cancelled, and shall also by such order direct payment forthwith of any costs which may be found due to the defendant or the owner of the said logs or timber. 54 V. c. 22, s. 22.

Costs.

31.—(1) Where the taxed costs, exclusive of necessary disbursements, of the proceedings to enforce any lien under this Act which are payable out of the amount realized by the proceedings for the satisfaction of the lien shall exceed twenty-five

per cent. of the amount so realized such costs upon application by any party to the proceedings interested in the payment thereof, may be reduced by the Judge, so that the same shall not in the aggregate exceed the said twenty-five per cent. and no more costs than such reduced amount shall be recovered between party and party or solicitor and client.

(2) The costs in addition to actual and necessary disbursements which may be taxed to any claimant proving an uncontested claim under this Act, shall not exceed the sum of five dollars (if a solicitor is employed), and where the amount claimed is within the jurisdiction of the Division Court shall not exceed two dollars (where a solicitor is employed). In case of a contest (where a solicitor is employed) such additional costs, if any, as the Judge may allow to be taxed upon the scale of the District Court or Division Court according as the amount in dispute is within the jurisdiction of the one or the other of these Courts, but in no case shall such costs exceed ten dollars, exclusive of disbursements, when taxed on the District Court scale, or five dollars, exclusive of disbursements, when taxed on the Division Court scale, but where the claim does not exceed \$50, then such costs shall not exceed three dollars.

(3) Subject to the provisions of this section, the costs to be taxed to any party shall, as far as possible, be according to the tariff of costs in force as to other proceedings in the Court in which proceedings under this Act have been taken. 54 V. c. 22, s. 23.

32.—(1) Where more money shall be paid into Court as the proceeds of the sale of logs or timber than shall be required to satisfy the liens which shall be proved and interest and costs, if any creditor or creditors shall after the payment of such liens give to the Judge a notice that he is a creditor and seeks payment of his claim out of said moneys, the Judge shall, upon application of any such creditor, direct that such remaining moneys shall be paid over to the Sheriff of the district, who shall hold and distribute the same as in the case of moneys realized and held by him under *The Creditors' Relief Act*, and all parties having claims may take the like proceedings as those provided by section 7 and subsequent sections of *The Creditors' Relief Act* for proof of claims and obtaining certificates and executions therefor. Disposition of balance after sale and satisfaction of liens. Rev. Stat. c. 78.

(2) In case no such notice is given to the Judge within thirty days after the day fixed by the order for payment over to the claimants of the amount of their lien and costs, the Judge may order the payment out of Court of any remaining moneys to the party entitled to the same. 54 V. c. 22, s. 24.

33. Any person affected by proceedings taken under this Act may apply to the Judge to dismiss the same for want of proceedings for want of prosecution.

of due prosecution, and the Judge may make such order upon the application, and as to costs or otherwise, as may be just. 54 V. c. 22, s. 25 (1).

Adding parties.

34. The Judge may, at any stage of the proceedings, on application of any party, or as he may see fit, order that any person who may be deemed a necessary party to any such proceeding, be added as a party thereto, or be served with any process or notice provided for by this Act, and the Judge may make such order as to the costs of adding such person or corporation, or as to such service as may be just. 54 V. c. 22, s. 25 (2).

Other remedies not affected.

35. Nothing in this Act contained shall be deemed to dis-entitle any person to any other remedy to which he may be entitled for the recovery of any amount due in respect of labour, service or services performed upon or in connection with any logs or timber and where a suit is brought to enforce a lien, but no lien shall be found to exist in respect of the claim, judgment may be directed for the amount found due as in an ordinary action. 54 V. c. 22, s. 26.

Any number of lien holders may join in proceedings.

36. Any number of lien holders may join in taking proceedings under this Act, or may assign their claims to any one or more persons, but the statement of claim to be filed under section 6 shall include particular statements of the several claims of persons so joining, and shall be verified by the affidavits of the persons so joining, or separate statements of claim may be filed and verified as by this Act provided, and one attachment issued on behalf of all the persons so joining. 54 V. c. 22, s. 27.

Transfer of suit from Division Court in case proceedings taken in District Court.

37. Where proceedings have been commenced under this Act in the District Court, and proceedings are thereafter brought or are pending against the same logs or timber, or any part of them, in a Division Court, the Judge of the District Court may order the proceedings in the Division Court to be adjourned before him, and shall in his enquiry as hereinbefore mentioned include the claims in respect of which proceedings are pending in the Division Court, and thereafter all persons who shall have filed claims in the Division Court shall be entitled to prove such claims and to share in the benefits of the proceedings in the District Court. 54 V. c. 22, s. 28

Where suits in several Courts.

38. Where suits are brought in several District Courts or in several Division Courts, the procedure under sections 24, 25, 26 and 27 shall be had in the District or Division Court, as the case may be, out of which an execution or attachment first issued, unless the Judge of such Court shall otherwise order. 54 V. c. 22, s. 29.

39. The rules of procedure regulating the practice in actions brought in the District Courts or in Division Courts, in the said districts and provisional county, shall, so far as they are not inconsistent with this Act, regulate proceedings taken under this Act. 54 V. c. 22, s. 30. Practice.

40. Any person who shall unlawfully and maliciously, and without reasonable or probable cause, take, or cause to be taken proceedings under this Act by which any logs or timber shall be seized, detained or sold, shall be liable therefor, in an action at the suit of any person aggrieved thereby, and shall be liable for all loss and damage occasioned by such seizure to such person, by reason of such logs or timber breaking away or being scattered or lost, or otherwise. 59 V. c. 36, s. 4 (2); 60 V. c. 15 Sched. A. (78). Liability for loss occasioned by improper seizure.

41. No payment of wages shall be made or offered to any person for any labor or services performed upon or in connection with any logs or timber, in the said districts and provisional county by any cheque, order, I.O.U., bill of exchange, promissory note, or other undertaking, other than a bank note or bill, drawn upon or payable at or within any place or locality not within the Province of Ontario. 54 V. c. 22, s. 31; 59 V. c. 36, s. 1. Illegal payments.

42. Any person violating, or who shall direct or knowingly suffer his agent or servant to violate the provisions of section 41 of this Act, shall, upon conviction thereof, be liable to a penalty of not less than \$5 and not more than \$20, to be recovered by summary proceedings before a Stipendiary or Police Magistrate or Justice of the Peace, under *The Ontario Summary Convictions Act*. 54 V. c. 22, s. 32. Penalties.

43. No payment made or offered to be made in violation of section 41 of this Act, shall be allowed as a defence in any action or proceeding for the recovery of wages, or be receivable in evidence thereon, nor shall any such payment or offer of payment in any way affect any claim of lien for labor or services on logs or timber under this Act, but in case of the sale, or transfer of such paper writing or instrument, in whole or in part, by the payee, the consideration received by him shall be held and treated as payment on account. 54 V. c. 22, s. 33. Illegal payments not to be allowed as a defence in any action.

SCHEDULE.

(Sections 6 and 7.)

STATEMENT OF CLAIM OF LIEN.

A. B., (*name of claimant*) of (*state residence of claimant*), (*if claim made as assignee then say as assignee of giving name and address of assignor*) under "The Woodman's Lien for Wages Act," claims a lien upon certain logs or timber of (*here state the name and residence of the owner of logs or timber upon which the lien is claimed if known*) upon the logs and timber composed of (*state the kinds of logs and timber such as pine sawlogs, cedar or other posts or railway ties, shingle bolts or staves, etc., also where situate at time of filing of statement*) in respect of the following work, that is to say, (*here give a short description of the work done for which the lien is claimed*) which work was done for (*here state the name and residence of the person upon whose credit the work was done*) between the day of and the day of at (per month or day as the case may be).

The amount claimed as due (*or to become due*) is the sum of (*when credit has been given, the said work was done on credit, and the period of credit will expire on the* day of).

Dated at this day of A.D.

(*Signature of Claimant*).

AFFIDAVIT TO BE ATTACHED TO STATEMENT OF CLAIM.

(Section 6, sub-s. 1.)

I make oath and say that I have read (*or have heard read*) the foregoing statement of claim, and I say that the facts therein set forth are, to the best of my knowledge and belief, true, and the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all sums of money, goods or merchandise to which the said (*naming the debtor*) is entitled to credit as against me.

Sworn before me at in the district)
of this day of A.D., 18 j

A Commissioner.

54 V. c. 22, Sched.

CHAPTER 155.

An Act to secure payment of Wages for Labour performed in the construction of Public Works.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. In case a contractor for the construction of a public work let under contract with Her Majesty, or a member of the Executive Council for Ontario acting for and on behalf of Her Majesty, or any sub-contractor in the construction of any such public work, makes default in the payment of the wages of any foreman, workman or labourer employed on the work, or in payment of any sum due by the contractor or sub-contractor for labour done by such foreman, workman or labourer, or by any team employed on the work, if the claim for such wages or sum is filed in the office of the member of the Executive Council entering into the contract for and on behalf of Her Majesty, or having the supervision of the execution of the contract where the same is made with Her Majesty, not later than two months after the same becomes due, and satisfactory proof thereof is furnished to him, he may cause such claim to be paid to the extent of any moneys or securities at the time of the filing of the said claim in the hands of the Crown for securing the performance of the contract. 59 V. c. 37, s. 1; 60 V. c. 15, Sched. A (79).

Payment of wages of employees of contractors or sub-contractors out of securities held by Crown.

2. The said member of the Executive Council, may, in writing, require every or any contractor or sub-contractor for the construction of any public work, to file in the office of the said member of the Executive Council of Ontario, not later than the fifteenth day of each month, a list showing the names, rate of wages, amounts paid and amounts due and unpaid for wages or labour done by any foreman, workman, labourer or team employed by the contractor or sub-contractor during the previous month, and such list shall be attested upon oath or statutory declaration of the contractor or sub-contractor or his authorized agent. 59 V. c. 37, s. 2.

List of employees, etc., to be furnished when required.

3. Every contractor or sub-contractor aforesaid, who having received such demand, makes default in forwarding such list in accordance with the provisions of the next preceding section, shall incur a penalty not exceeding \$100 and not less than \$10 for every day during which default con-

Failure to furnish list.

Penalty.

tinues, and the amount of such penalty, within the above limits, shall be determined by the member of the Executive Council under whom the work is being executed, and may be deducted out of the moneys in the hands of the Crown deposited by or owing to such contractor and shall be vested in Her Majesty. 59 V. c. 37, s. 3.

When sub-contractor fails to furnish list.

4. When default is made by a sub-contractor in furnishing such list, the penalty for such default, hereinbefore provided, may be recovered, with costs, at the suit of the Crown in any Court of competent jurisdiction. 59 V. c. 37, s. 4.

Retaining portion of legislative grant and paying wages, etc., thereout.

5. Where any subsidy, advance, loan or bonus of money is authorized by the Legislature to be granted to any company or person towards the construction of any railway or other work it shall in the absence of special provision by the Legislature to the contrary, be deemed a condition of the grant that so much of the money may be retained as the Lieutenant-Governor in Council may think proper to secure the payment of claims for wages of persons employed on such railway or other work whether by such company or by any contractor or sub-contractor, or for sums due or to become due for labour of persons or teams so employed, and in the event of any such claim for such wages or for any such sum remaining unpaid for thirty days after notice thereof has been served upon such member of the Executive Council as may be charged with the duty of seeing that the conditions upon which such aid is granted and the provisions of the Act of the Legislature respecting the same are duly carried out, the Lieutenant-Governor in Council may, on being satisfied that such claim is due and unpaid, direct that it be paid together with all proper costs and charges in connection therewith out of any moneys so retained. 59 V. c. 37, s. 5.

Companies hereafter incorporated to be liable for wages due by contractors, etc.

6. Every company incorporated on or after the 7th day of April, 1896, under any general or special Act of the Legislature shall be liable for the payment of the wages of all foremen, workmen, labourers or teams employed in the construction of any work in the Province done by or for the company, whether directly under the company or through the intervention of any contractor or sub-contractor, provided that nothing herein contained shall be construed in any way to prejudice or affect the right of any such workman against any such contractor or sub-contractor under any other Act or law in force in the Province. 59 V. c. 37, s. 6.

Notice of claim to be served on company.

7. In case default is made by any contractor or sub-contractor in payment of the wages of any such foreman, workman or laborer, a notice stating the name of the claimant and the amount of wages claimed, shall be served upon the company by or on behalf of the claimant not later than two months after such wages are payable, and in default of such

notice the liability imposed by section 6 of this Act shall cease. The said notice and any summons, notice, order or other process required to be served upon the company in the prosecution of an action under section 6 of this Act may be served upon the president, vice-president, secretary, managing director, superintendent or engineer, or any recognized officer representing the company, or by leaving the same with any adult person at the office or usual place of abode of any of them. 59 V. c. 37, s. 7.

8. This Act shall apply to contracts heretofore entered into, and to subsidies or bonuses heretofore authorized by the Legislature, as well as to contracts hereafter entered into and subsidies and bonuses hereafter authorized, but without prejudice to the claims of other persons who may, before the said 7th day of April, 1896, have acquired liens on the contract money or on the subsidies or bonuses aforesaid. 59 V. c. 37. s. 8.

Application of Act to contracts heretofore entered into.

CHAPTER 156.

An Act respecting Wages.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Application of Act. **1.** This Act shall apply to wages or salary whether the employment in respect of which the same shall be payable, be, by the day, by the week, by the job or piece or otherwise. R. S. O. 1887, c. 127, s. 4.

Wages or salaries to have priority in assignments for benefit of creditors. **2.** Whenever an assignment is made of any real or personal property for the general benefit of creditors, the assignee shall pay in priority to the claims of the ordinary or general creditors of the person making the same, the wages or salary of all persons in the employment of such person at the time of the making of such assignment, or within one month before the making thereof, not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary or general creditors for the residue, if any, of their claims. R. S. O. 1887, c. 127, s. 1.

And in winding up proceedings under R. S. Stat. c. 222. **3.** In distributing the assets of a company under the provisions of *The Joint Stock Companies' Winding-up Act*, the liquidator shall pay in priority to the claims of the ordinary or general creditors of the company the wages or salary of all persons in the employment of the company at the time of the making of the winding-up order, or within one month before the making thereof, not exceeding three months' wages or salary, and such persons shall be entitled to rank as ordinary or general creditors of the company for the residue, if any, of their claims. R. S. O. 1887, c. 127, s. 2.

And over execution creditors. **4.** All persons who are at the time of the seizure by the Sheriff, or who within one month prior thereto have been in the employment of the execution debtor, and who shall become entitled to share in the distribution of money levied out of the property of a debtor within the meaning of *The Creditors' Relief Act*, shall be entitled to be paid out of such money the wages or salary due to them by the execution debtor, not exceeding three months' wages or salary, in priority to the claims of the other creditors of the execution debtor, and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. R. S. O. 1887, c. 127, s. 3; 55 V. c. 27, s. 1.

Rev. Stat. c. 78.

5. All persons in the employment of an absconding debtor at the time of a seizure by the Sheriff under *The Act respecting Absconding Debtors* or within one month prior thereto, shall be entitled to be paid out of any moneys realized out of the property of such debtor, by such Sheriff the wages or salary due to them by the absconding debtor, not exceeding three months wages or salary, in priority to the claims of the other creditors of the absconding debtor and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claims. 55 V. c. 27, s. 2.

And in case of attachment.

Rev. Stat. c. 79.

6. In the administration of the estate of any person dying on or after the 13th day of April, 1897, any person in the employment of the deceased at the time of his death, or within one month prior thereto, who is entitled to share in the distribution of the estate, shall be entitled to his salary or wages not exceeding three months thereof in priority to the claims of the ordinary or general creditors of the deceased, and such person shall be entitled to rank as an ordinary or general creditor of such deceased person for the residue, if any, of his claim. 60 V. c. 23, ss. 1, 2.

And in administration of estates.

7.—(1) No debt due or accruing to a mechanic, workman, labourer, servant, clerk or employee, for or in respect of his wages or salary, shall be liable to seizure or attachment, unless such debt exceeds the sum of \$25, and then only to the extent of such excess.

Debts due to mechanics, etc. for wages, not to be attached, except excess over \$25.

(2) Nothing in the preceding sub-section contained shall affect or impair the right or remedies of any creditor whose debt has been contracted before the first day of October, 1874. R. S. O. 1887, c. 64, s. 8.

Saving clause as to debts created before 1st Oct., 1871.

8. This Act is not intended to apply to an assignment made under the provisions of any Act of the Parliament of Canada relating to or respecting bankruptcy or insolvency. R. S. O. 1887, c. 127, s. 5.

Not to interfere with any Dominion Insolvency Act.

[As to wages payable to employees of contractors for public works, see Chap. 155.]

CHAPTER 157.

An Act respecting Master and Servant.

SLAVERY PROHIBITED, s. 1.	AGREEMENTS MADE WITH RESIDENTS
LIMITATION OF VOLUNTARY CON-	OUT OF CANADA FOR SERVICE IN
TRACTS OF SERVICE, s. 2.	ONTARIO, s. 8.
PARTICIPATION OF WORKMEN IN PRO-	SUMMARY PROCEEDINGS BEFORE JUS-
FITS OF BUSINESS, ss. 3, 4.	TICES OF THE PEACE, ss. 9-16.
WRITTEN OR VERBAL AGREEMENTS AS	SERVICE OF SUMMONS, ETC., s. 17.
TO SERVICE TO BE BINDING, s. 5.	APPEALS, ss. 18-23.
OFFENCES AND PENALTIES :—	AGREEMENTS WAIVING ACT VOID,
Detention in pledge of servants'	s. 24.
wearing apparel, s. 6.	NON-APPLICATION OF CERTAIN SEC-
ADJUSTMENTS OF DISPUTES, s. 7.	TIONS, s. 25.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

SLAVERY PROHIBITED.

Slavery pro-
hibited.

1. The Lieutenant-Governor shall not grant a license for the importation of any negro or other person to be subjected to the condition of a slave, or to a bounden involuntary service for life, into any part of the Province of Ontario; nor shall any negro, or other person, who comes or is brought into this Province, be subject to the condition of a slave, or to such service as aforesaid within the same. R. S. O. 1887, c. 139, s. 1.

MASTER AND SERVANT.

No voluntary
contract of
service or in-
dentures to be
binding longer
than nine
years.

2. No voluntary contract of service or indentures entered into by any parties shall be binding on them, or either of them, for a longer time than a term of nine years from the day of the date of such contract. R. S. O. 1887, c. 139, s. 2.

Agreements
by which
workmen, etc.,
may share in
the profits of
the business.

3. It shall be lawful in any trade, calling, business, or employment, for an agreement to be entered into between the workman, servant, or other person employed, and the master or employer, by which agreement a defined share in the annual or other net profits or proceeds of the trade or business carried on by such master or employer, may be allotted and paid to such workman, servant or person employed, in lieu of or in addition to his salary, wages, or other remuneration; and such agreement

shall not create any relation in the nature of partnership, or any rights or liabilities of co-partners, any rule of law to the contrary notwithstanding; and any person in whose favour such agreement is made, shall have no right to examine into the accounts, or interfere in any way in the management or concerns of the trade, calling, or business in which he is employed under the said agreement or otherwise; and any periodical or other statement or return by the employer, of the net profits or proceeds of the said trade, calling, business, or employment, on which he declares and appropriates the share of profits payable under the said agreement, shall be final and conclusive between the parties thereto and all persons claiming under them respectively, and shall not be impeachable upon any ground whatever. R. S. O. 1887, c. 139, s. 3.

4. Every agreement of the nature mentioned in the last preceding section shall be deemed to be within the provisions of this Act, unless it purports to be excepted therefrom, or this may otherwise be inferred. R. S. O. 1887, c. 139, s. 4.

Certain agreements within this Act.

5. All agreements or bargains, verbal or written, between masters and journeymen, or skilled labourers, in any trade, calling or craft, or between masters and servants or labourers, for the performance of any duties or service of whatsoever nature, shall, whether the performance has been entered upon or not, be binding on each party for the due fulfilment thereof; but a verbal agreement shall not exceed the term of one year. R. S. O. 1887, c. 139, s. 5.

Verbal as well as written agreements between master and servant to be binding.

6. No tavern keeper or boarding-house keeper shall keep the wearing apparel of any servant or labourer in pledge for any expenses incurred to a greater amount than \$6, and on payment or tender of such sum, or of any less sum due, such wearing apparel shall be immediately given up, whatever be the amount due by such servant or labourer; but this is not to apply to other property of the servant or labourer. R. S. O. 1887, c. 139, s. 6.

Tavern keepers, etc., not to keep wearing apparel of servant in pledge for any amount above \$6.

7. If after the termination of an engagement between master and servant, any dispute arises between them in respect of the term of such engagement or of any matter appertaining to it, the Justice or Justices of the Peace who receive the complaint shall be bound to decide the matter, in accordance with the provisions of this Act, and as though the engagement between the parties still subsisted: but proceedings must be taken within one month after the engagement has ceased. R. S. O. 1887, c. 139, s. 7.

How certain differences between master and servant are to be decided.

Proviso.

8. —(1) Any agreement or bargain, verbal or written, express or implied, which may be made between any person and any other person not a resident of Canada, for the performance of labour or service, or having reference to the

Agreements made with residents out of Canada for service in Ontario to be void.

performance of labour or service by such other person in the Province of Ontario, and made as aforesaid, previous to the migration or coming into Canada, of such other person whose labour or service is contracted for, shall be void and of no effect, as against the person only so migrating or coming.

Exception.

(2) Nothing in this section shall be so construed as to prevent any person from engaging under contract or agreement skilled workmen, not resident in Canada, to perform labour in Ontario in or upon any new industry not at present established in Ontario, or any industry at present established if skilled labour for the purpose of the industry cannot be otherwise obtained; nor shall the provisions of this section apply to teachers, professional actors, artists, lecturers, or singers. R. S. O. 1887, c. 139, s. 8.

SUMMARY PROCEEDINGS BEFORE JUSTICES.

Duties of Justices of the Peace on receiving complaints.

9. Any one or more of Her Majesty's Justices of the Peace may receive the complaints upon oath of parties complaining of any contravention of the preceding provisions of this Act, and may cause all parties concerned to appear before him or them, and shall hear and determine the complaint in a summary and expeditious manner. R. S. O. 1887, c. 139, s. 9.

Complaints may be in any County.

10. Complaints against any person under this Act may be prosecuted and determined in any county or district in which the person complained against is found, or, except when the complaint is made by a foreman, manager, officer or other person whose wages are more than \$3 a day, in any county or district in which the person complained against carries on business. R. S. O. 1887, c. 139, s. 11; 59 V. c. 38, s. 2

Complaints by servants for non-payment of wages.

11. Any one or more of the Justices, upon oath of such servant or labourer against his master or employer concerning any non-payment of wages, may summon the master or employer to appear before him or them at a reasonable time to be stated in the summons, and he or they or some other Justice or Justices shall, upon proof on oath of the personal service of the summons, or upon proof of its service as is hereinafter authorized, examine into the matter of the complaint, whether the master or employer appears or not, and upon due proof of the cause of complaint, the Justice or Justices may discharge the servant or labourer from the service or employment of the master, and may direct the payment to him of any wages found to be due, not exceeding the sum of \$40, and the Justice or Justices shall make such order for payment of the said wages as to him or them seems just and reasonable, with costs, and in case of the non-payment of the same together with the costs for the space of eight days after such order has been made, the Justice or Justices shall issue his or their warrant of distress for the levying of the

wages, together with the costs of conviction and of the distress.
R. S. O. 1887, c. 139, s. 12; 54 V. c. 24, s. 1; 59 V. c. 38, s. 6.

12. Proceedings may be taken under this Act within one month after the engagement or employment has ceased, or within one month after the last instalment of wages under the agreement of hiring has become due, whichever shall last happen; and proceedings under section 11 may be had for non-payment of wages in respect of service or labour performed in Ontario upon a verbal agreement or bargain made out of Ontario. R. S. O. 1887, c. 139, s. 13.

Time within which proceedings may be taken.
Work done in Ontario under verbal agreement made out of Ontario.

13. Where the proceedings are taken before a Police Magistrate, and payment of wages is ordered by him to be made by the master or employer to the servant or labourer, and the same are not paid within the time limited by the order, the same proceedings may be taken by the person claiming the benefit of the order as may be taken by a party having an unsatisfied judgment or order in a Division Court for the payment of any debt, damages or costs, as respects the examination of the judgment debtor touching his estate and effects, the means he has of discharging his liability, and the disposal he has made of any property, and the Police Magistrate shall have the like power and authority to enforce payment of the debt as are possessed by the Division Court Judge in like cases; and the practice and proceedings thereon shall be the same as nearly as may be and have the same effect as provided in *The Division Courts Act* with respect to judgment debtors. 52 V. c. 22, s. 1.

Proceedings before a Police Magistrate.

Rev. Stat., c. 60 ss. 213-254.

14. Subject to section 16 in the case of a city Police Magistrate, the Police Magistrate, if he thinks fit, may name in the order for payment of wages, such time not exceeding 21 days, as to him may seem just and reasonable for the payment of the same and costs; and in case of non-payment within such time the complainant shall be entitled to take forthwith the proceedings for enforcing payment herein provided. 52 V. c. 22, s. 2.

Limit of time for payment.

15.—(1) In the case of wages due to any mechanic, labourer or other person in respect of work of the character mentioned in section 4 of *The Mechanics' and Wage Earners' Lien Act*, the jurisdiction of a Police Magistrate in a city under this Act shall extend to wages for thirty days, or for a balance equal to the wages for thirty days, though the same or the balance thereof exceed the sum of \$40 in section 11 mentioned.

Jurisdiction of Police Magistrate in cities.

Rev. Stat. c. 153.

(2) Where no specific rate of wages has been expressly agreed to between the parties, the city Police Magistrate aforesaid may order payment of the wages, reckoning the amount thereof according to the current rate of wages in the city in like cases, or according to what may appear to be a just and reasonable allowance.

Where no specific rate of wages agreed on.

When master
claims set-off.

(3) In case the master or employer claims a set-off, the Police Magistrate shall investigate the set-off and give judgment for the balance of wages, if any, due to the claimant, after deducting such set-off. The Police Magistrate shall not have jurisdiction to adjudicate upon a claim of set-off exceeding the claim for wages, except to the extent of the wages. 59 V. c. 38, s. 10.

Order for pay-
ment of
wages; en-
forcing.

16.—(1) Any order of a city Police Magistrate for the payment of such wages as aforesaid shall be payable forthwith, and a warrant of distress shall be issued accordingly, unless the master makes oath, and the Police Magistrate believes, that the master is unable to make the payment forthwith, and expects to be able to pay and intends to pay the same within the time given, and unless also the Police Magistrate considers the proposed delay to be under all the circumstances reasonable. The Magistrate, if he sees fit, may order security to be given as a condition of delay.

Adjournment
at instance of
master.

(2) In case of an adjournment at the instance of the master, the adjournment shall be on payment then and there for the claimant's time in attending the court (the amount to be fixed by the Police Magistrate) unless the Magistrate sees reason for dispensing with such immediate payment.

Appeal from
order.

(3) In any case under this or the next preceding section the order of a Police Magistrate shall be subject to appeal as the decision of a Division Court Judge would in a like case be subject to appeal.

Order of
Police Magis-
trate may be
enforced in
Division
Court.

(4) The order of the Police Magistrate for payment may be filed in that Division Court which would be the proper court for bringing an action for the wages, and on such filing the order shall thereby become a judgment of the said Division Court, and may be treated in all respects and enforced as a judgment of the said Court. 59 V. c. 38, s. 11.

Service of
summons, etc.

17.—(1) Every summons issued under this Act against an individual, firm or corporation not having his or their chief place of business within the Province, and every subsequent paper or proceeding in the action or proceeding in which the summons has been issued may be served (except in the cases provided for by subsection 2) upon the person or persons to whom it is directed either by delivering it to him or them personally, or if such person or persons cannot conveniently be found, by leaving the same for him or them at any place where such individual, firm or corporation carries on business within the county or district in which the Justice of the Peace issuing the summons has jurisdiction, with some adult person employed in the office or place of business of such person or persons. 59 V. c. 38, s. 4.

Service on cer-
tain public
companies.

(2) In cases against railroad, telegraph, telephone and express companies every such summons and other papers may be served on any agent of the company whose office or place of

business as such agent is within such county or district ; and for the purposes of this section the word "agent" shall be held to include:—

(a) In the case of a railway company, a station master having charge of a station belonging to the railway company ;

(b) In the case of a telegraph company, a person having charge of a telegraph office belonging to the telegraph company ;

(c) In the case of a telephone company, a person having charge of a telephone office belonging to the telephone company ; and

(d) In the case of an express company, a person having charge of an express office belonging to the express company.
59 V. c. 38, s. 5.

(3) Service performed as authorized by this section shall be deemed equal to and have the same effect as personal service.
59 V. c. 38, s. 6 ; 60 V. c. 3, s. 3.

Effect of service under this section.

APPEALS.

18. All appeals from or against any conviction or order for the payment of wages, or any order of dismissal from service or employment or against any decision of any Justice or Justices under this Act shall, be made to the Division Court, held in the division in which the cause of action arose, or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or (except in the case of a complaint by any person mentioned in section 25) to the Division Court holden in the division in which the party or parties complained against, or one of them, carried on business, and in case of dismissal of the appeal or affirmance of the conviction, order or decision, the Court appealed to shall order and adjudge the offender to be punished according to the conviction, or shall enforce the order for payment of wages or of dismissal, as the case may be, and for the payment of the costs awarded, and shall, if necessary, issue process for carrying such judgment into effect.
R. S. O. 1887, c. 139, s. 14 ; 59 V. c. 38, ss. 7 and 12.

Mode of appeal.

19. The person proposing to appeal shall give to the opposite party a notice in writing of his appeal, and of the cause or matter thereof, within four days after such conviction, order, decision or judgment, and eight days, at least, before the holding of the Court at which the appeal is to be heard, and shall also, within the four days, enter into a bond to the opposite party with two sufficient sureties—to be approved of by the clerk of the Court—in the penal sum of \$100, conditioned personally to appear at the said Court and try the appeal and to abide the judgment of the Court thereon, and to pay such costs as shall be by the Court awarded, and upon the notice being served and bond executed and filed with the clerk

Notice of appeal.

all proceedings on the order, conviction or decision appealed against shall be stayed until the determination of the appeal. R. S. O. 1887, c. 139, s. 15.

Bond on appeal.

20. Except in the case of a complaint by any person mentioned in section 25, it shall not be necessary for the appellant to enter into or join in an appeal bond to the opposite party, but a bond shall be sufficient if executed by two sufficient sureties only, and approved of by the clerk of the court, in the penal sum of \$100, conditioned to the effect by section 19 of this Act provided. 59 V. c. 38, s. 9.

Case to be entered by clerk.

21.—(1) The clerk shall, on the bond and notice of appeal with an affidavit of service thereof being filed in his office, enter the cause in his procedure book, and the appeal may be tried with a jury if the appellant files with the clerk at the time of filing the bond a notice requiring a jury, or if the respondent, within four days after the service of the notice of appeal upon him, files a notice with the clerk, requiring a jury, and if the proper fees are, in either case, deposited with the clerk; otherwise the Judge may try the appeal without a jury or may summon a jury from the body of the Court as to him seems meet. R. S. O. 1887, c. 139, s. 16.

Waiver of right to jury.

(2) If at the time of filing a notice requiring a jury, the proper jury fees are not deposited with the Clerk by the party filing such notice, he shall be deemed to have waived the right to have the appeal tried by a jury. 59 V. c. 38, s. 8 (2).

Time and place for hearing appeals.

22. Upon the application of either party to an appeal the Judge, subject to the right of either party to have the same tried by a jury as hereinbefore provided, may try the appeal at such time and place as he may appoint, and upon such notice as to him seems reasonable. 59 V. c. 38, s. 8 (1).

Proceedings in case of appeal dismissed or affirmed.

23. In case of the dismissal of the appeal or affirmance of the conviction, order or decision, the Judge may order and adjudge the offender to be punished according to the conviction or order, or he may direct the enforcement of the order for payment of wages or of dismissal, as the case may be, with the payment of the costs awarded, and any order or orders made by him in the premises shall be enforced and carried into execution by the officers of the Court. The Judge may direct execution to issue for the levying of any moneys or costs awarded or ordered to be paid, and in the event of any such moneys or costs being payable by the appellant, which have not been levied under execution against the goods of the appellant, the Judge may order the bond to be delivered up to the respondent, who shall be entitled to recover the amount due him with costs in any Division Court having jurisdiction. R. S. O. 1887, c. 139, s. 17.

AGREEMENTS WAIVING ACT.

24. Every agreement or bargain, verbal or written, express or implied, which has heretofore been made or entered into, or which may hereafter be made or entered into, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act whereby it is agreed that this Act shall not apply, or that the remedies hereby provided shall not be available for the benefit of any person entering into such agreement, is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic, or other person. 59 V. c. 38, s. 3.

Contracts
waiving
application of
Act to be void.

NON-APPLICATION OF CERTAIN SECTIONS.

25. Sections 15, 16, 22 and 24 shall not apply to any foreman, manager, officer or other person whose wages are more than \$3 a day. 59 V. c. 38, s. 12.

Sections 15,
16, 22 and 24
not to apply
to certain
persons.

CHAPTER 158.

An Act respecting Councils of Conciliation and of Arbitration for settling Industrial Disputes.

SHORT TITLE, s. 1.	POWERS OF COUNCILS, s. 23.
INTERPRETATION, s. 2.	PROFESSIONAL ASSISTANCE PROHIBITED, s. 24.
DISPUTES WITHIN THE ACT, s. 3.	PARTIES NOT TO PAY REGISTRAR, s. 25.
REGISTRAR, s. 4.	REMUNERATION OF MEMBERS OF COUNCIL, s. 26.
COUNCIL OF CONCILIATION, s. 5.	WITNESS FEES, s. 27.
PROCEDURE FOR CONCILIATION, ss. 6-13.	REGULATIONS AND FORMS, ss. 28, 29.
COUNCILS OF ARBITRATION, ss. 14, 15.	IRREGULARITIES, s. 30.
PROCEDURE FOR ARBITRATION, ss. 16-22.	

Preamble.

WHEREAS there is reason to believe that the establishment of Councils of Conciliation and Arbitration for the friendly settlement of disputes between employers and employees would conduce to the cultivation and maintenance of better relations and more active sympathies between employers and their employees, and would be of benefit in the public interest by providing simple methods for the prevention of strikes and lock-outs, from which industrial operations and the welfare of the country generally may suffer injury;

Therefore Her Majesty, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Ontario Trade Disputes Conciliation and Arbitration Act*," or as "*The Trade Disputes Act*." 57 V. c. 42, s. 1.

Interpretation.

"Employer,"
"Employee."

2. In this Act, the word "employer" shall mean any person or body of persons, incorporated or unincorporated, employing not less than ten workmen in the same business in which the trade dispute has arisen; the word "employee" shall mean any person in the employment of an employer, as defined by this Act. 57 V. c. 42, s. 2.

Claims and disputes within the Act.

3.—(1) A claim or dispute under this Act shall include any disagreement between any employer and his employees in respect of any of the matters following:—

1. The price to be paid for work done, or in course of being done, whether such disagreement shall have arisen with respect to wages, or to the hours or times of working ;
2. Damage alleged to have been done to work, delay in finishing the same, not finishing the same in a good and workmanlike manner or according to agreement ; or a dispute respecting materials supplied to employees and alleged to be bad, or unfit, or unsuitable ;
3. The price to be paid for mining any mineral or substance mined, or obtained by mining, hewing, quarrying or other process ; or the allowances, if any, to be made for bands, refuse, faults, or other causes whereby the mining of the mineral substance is impeded ;
4. The performance or non-performance of any stipulation or matter alleged to have been in an agreement, whether in writing or not ;
5. Insufficient or unwholesome food supplied to employees where there is an agreement to victual them, or to supply them with provisions or stores of any kind ;
6. Ill-ventilated or dangerous workings or places in mines, or unwholesome or insanitary rooms or other places of accommodation, in which work is being performed, or want of necessary conveniences in connection with such rooms or places ;
7. The dismissal or employment under agreement of any employee or number of employees ;
8. The dismissal of an employee or employees for their connection with any trade or labour organization ;

(2) No claim or dispute shall be the subject of conciliation or arbitration under this Act in any case in which the employees affected by such claim or dispute shall be fewer in number than ten. 57 V. c. 42, s. 3.

4.—(1) The Lieutenant-Governor is hereby authorized to appoint a suitable person to act as Registrar of Councils of Conciliation and of Arbitration for the settlement of industrial disputes. Such office shall be assigned to some person performing other duties in the public service, unless and until the duties are so onerous as to require a separate appointment

Office of Registrar.

(2) It shall be the duty of the Registrar to receive and register, and, subject to the provisions of this Act, to deal with all applications by employers or employees or on their behalf for reference to a Council of Conciliation or to the Council of Arbitration, of any dispute or claim within the meaning of this

Duties, etc., of Registrar.

Act; to convene such councils for the purpose of dealing with any dispute or claim; to keep a register in which shall be entered the particulars of all references and settlements of disputes and claims made to and by a council of conciliation, and of all references and awards made to and by the council of arbitration; and generally to do all such things and take all such proceedings as may be required in the performance of his duties under this Act or the regulations made in pursuance thereof.

Registrar to
summon wit-
nesses and
issue notices.

(3) The Registrar shall have authority to issue all summonses (Form P) to witnesses to attend to give evidence, (with or without the production of papers and documents,) and to issue all notices and perform all other acts in connection with the sittings of each such Council in the prescribed manner. 57 V. c. 42, s. 4.

COUNCIL OF CONCILIATION.

Councils of
conciliation.

5.—(1) A Council of Conciliation for the purpose of any dispute or claim, shall consist of four conciliators, two to be nominated by each of the parties to the dispute.

Nomination
of conciliators.

(2) The nomination shall be by writing lodged with the Registrar.

Filing
nomination
papers.

(3) Either party may lodge the nomination papers with the Registrar at any time after the dispute has arisen; and if the Registrar has not already received a nomination of two conciliators on behalf of the other party, he shall give notice to such other party of the nomination which he has received.

Extraordinary
vacancies.

(4) Any vacancy in a Council of Conciliation arising through the death, resignation, or otherwise, of any member thereof shall be filled in the same way as the appointment was first made, namely on the nomination of the party whose conciliator has ceased to be a member of the Council. 57 V. c. 42, s. 5.

PROCEDURE FOR CONCILIATION.

Reference
to council of
conciliation.

6. A dispute or claim within the meaning of this Act may be referred for settlement to a Council of Conciliation in the cases following:—

Agreement to
refer.

1. Where the parties to the dispute or claim jointly agree in the prescribed manner, (Form B) to refer such dispute or claim for settlement to a Council of Conciliation;

Application
for reference.

2. Where either party to the dispute or claim in the prescribed manner, lodge an application (Form C) with the Registrar requesting that the dispute or claim be referred for settlement to a Council of Conciliation. 57 V. c. 42, s. 6.

7. The Registrar, on receipt of any such agreement or application for a reference to a Council of Conciliation, shall forthwith lay the same before the Council constituted in the prescribed manner; and subject to the provisions of this Act and the regulations, shall carry out all directions of the said Council given in the endeavour of the Council to effect a settlement of the dispute or claim. 57 V. c. 42, s. 7.

Duties of Registrar on application for reference.

8. Either party to the dispute or claim may, for the purposes of this Act, be represented by one or more persons (not exceeding three) authorized by such party as manager or managers in that behalf; and such party shall be bound by the acts of such representative or representatives. 57 V. c. 42, s. 8

Representatives before council of conciliation.

9. Where the party numbers fewer than twenty, the manager or managers must be authorized in writing (Form D) signed by the members of the party to act for and on their behalf. 57 V. c. 42, s. 9.

When managers must have written authority.

10. Where the party numbers twenty or more, the manager or managers may be appointed or elected in such manner as the members of the party think proper. A copy of the resolution (if any) electing the managers, together with a declaration by the chairman or president of the meeting (if any) stating it to have been carried, shall be kept as a record of the election. 57 V. c. 42, s. 10.

Election of managers as representatives.

11. The parties to the dispute shall, if possible, agree to a joint written statement of their case; but if they do not so agree, a statement in writing from each party shall be made. The statement or statements shall be forwarded to the registrar before the meeting of the Council. 57 V. c. 42, s. 11.

Written statement of case.

12. When the parties to a dispute or claim have named their conciliators, the Registrar shall by notice in writing (as in Form E in the Schedule hereto,) convene a meeting of the conciliators at a time and place mentioned in the notice, the same being selected with due regard to the general convenience of the conciliators and the parties. 57 V. c. 43, s. 12.

Convening meeting of conciliators.

13. —(1) The Council of Conciliation shall transmit to the Registrar a report setting forth the result of the reference. (Forms F and G.)

Report of council.

(2) In case such report is to the effect that the Council has failed to bring about any settlement or adjustment of the dispute, the Registrar on the receipt of the report, shall transmit a copy (certified by him) to each party to the dispute or claim; whereupon either party may (Forms H and I) require the Registrar to refer the dispute to the Council of Arbitration for settlement. (Form J.) 57 V. c. 42, s. 13.

When Council report their failure to bring about settlement.

THE COUNCILS OF ARBITRATION.

Establishment
of councils of
arbitration.

14.—(1) There shall be two Councils of Arbitration, a council of arbitration for the settlement by award in respect of disputes and claims other than between railway companies (including street railway companies) and wage-earners employed in respect of railway construction or traffic on railways; and a Council of Arbitration in respect of the disputes and claims between such railway companies and wage-earners so employed in respect of railway construction or traffic on railways.

Each council
to consist of
three mem-
bers.

(2) Each Council of Arbitration shall consist of three members, one to be appointed by the Lieutenant-Governor on the recommendation of the employees, and one to be appointed by him on the recommendation of the employers.

Appointment
of president
by agreement.

(3) The third member of each Council of Arbitration shall be the president of the Council and shall be appointed in manner following, namely: The two members appointed may, within twenty-one days after their appointment, submit (Form A) to the Lieutenant-Governor the name of some impartial person to be appointed by him to the position of president.

Appointment
of president
on failure to
agree.

(4) In case of the said two members failing so to do, the Lieutenant-Governor shall appoint as President an impartial person not personally connected with or interested in any trade or industry, or in the judgment of the Lieutenant-Governor likely by reason of his former occupation, business vocation or other influence, to be biassed in favour of or against employers or employees.

(5) The same person may be President of both Councils.

Council to be
gazetted.

(6) As soon as practicable after a full Council has been appointed by the Lieutenant-Governor, the names of the members of the Council shall be notified by the Registrar in the *Ontario Gazette*.

Cancellation
of appoint-
ment of mem-
ber of council.

(7) The Lieutenant-Governor may cancel the appointment of any member on the recommendation of the authority by which his appointment was recommended.

Term of office.

(8) The term of office of a member of a Council shall be two years; and at the end of every term of two years, a fresh appointment of members shall be made in manner aforesaid.

Members eli-
gible for re-
appointment.

(9) Every member of either Council after the expiry or other termination of his term of office shall be eligible for reappointment for a like term.

When presi-
dent or mem-
bers to forfeit
office.

(10) If the President of either Council shall be declared a bankrupt or insolvent, or shall make a composition with his creditors, or shall make an assignment of his property or salary for the benefit of his creditors, or if any member of either

council shall be convicted of any criminal offence, such President or member respectively shall thereby vacate his office of member.

(11) Any vacancy in either council arising from death, resignation or other cause, shall be filled by the Lieutenant-Governor for the term of office, or the residue of such term (as the case may be), in accordance with the respective methods prescribed by this Act. Vacancies, disabilities, etc.

(12) In case the President of either council is unable to act as such from illness, absence from the Province, or other temporary cause, the Lieutenant-Governor may appoint a person to be acting President of the Council of Arbitration in his place; and such acting President shall have all the powers and perform all the duties conferred by this Act upon the President. Temporary appointment of president.

(13) If any member of either Council other than the President shall, from illness or from any other disability howsoever arising, be unable to perform the duties of his office in respect to any dispute or claim then pending, the parties thereto may consent, in writing under their respective hands, to the appointment, by the Lieutenant-Governor, of a member named in such writing to act for and in the place of the member during such disability; and if either of the parties refuse such consent, then the Judge of the county in which the matter is situate with respect to which the dispute has arisen may, on notice to the parties of the application to him, make the nomination; and the Lieutenant-Governor may appoint the person so nominated, who shall thereupon be deemed a member of such Council for all purposes relating to such dispute or claim, and to the hearing and determination thereof. Illness or disability of member of council while reference pending.

(14) Where a dispute has been referred to either Council of Arbitration, the members of the Council of Conciliation may, with the consent in writing (Form M) of both parties to the dispute or claim, sit as assessors upon the reference to the Council of Arbitration; Provided always that no such assessor shall take any part in the reference except as an assessor sitting to inform the Council of Arbitration when called upon to do so. Members of council of conciliation may sit as assessors. Proviso.

(15) The members of each Council of Arbitration shall be remunerated for their services in such manner and according to such rate of payment as the Lieutenant-Governor in Council shall appoint, but subject to legislative provision being made therefor. 57 V. c. 42, s. 14. Remuneration of members of councils.

15. The following may be the method of ascertaining the recommendation of employers and employees as to the persons to be appointed on their recommendation respectively as members of the Councils of Arbitration respectively:— Mode of appointing arbitrators by employers and employees

1. For the person to be recommended by the employers every employer in the Province having at least ten persons in his employment shall be entitled to one vote; every organiza- Qualification of voters in the interest of employers.

tion in the Province, whether incorporated or unincorporated, representing the interests of employers, each member of which has at least ten persons in his employment, shall be entitled to one vote ;

2. Every Board of Trade in the Province legally constituted shall be entitled to one vote for a representative of the employers in each Council ;

Who may vote
for person to
be recom-
mended in
the interest of
employees.

3. For the person to be recommended by employees as a member of the Council of Arbitration in matters not belonging to railways, every trades and labour council, every district assembly of the Knights of Labour, every federated council of building trades, every lawfully incorporated trades union, every organization of wage-earners of an industrial calling primarily constituted for, and actually and *bona fide* operated for the regulation of the wages and hours of labour as between employers and employed, shall be entitled to one vote ; but this shall not be deemed to include co-operative associations or societies formed under *The Revised Statute respecting Co-operative Associations* :

Rev. Stat.
c. 202.

Who may
vote for per-
son to be
recommended
in the interest
of railway
employees

4. For choosing the person to be recommended by employees of railway companies as a member of the Council of Arbitration in matters belonging to railways, every organization in the Province, whether incorporated or unincorporated, exclusively representing the interest of wage-earners employed in respect of railway construction or traffic on railways shall be entitled to one vote ; but this shall not be, deemed to include co-operative associations or societies ;

Notice to
representative
interests.

5. The Registrar shall give notice in the *Ontario Gazette* calling on all organizations and persons entitled to vote for a member to be recommended to either Council, or claiming to be so entitled, to communicate with him on or before the 1st day of August, 1898, and every second year thereafter. Such notice is to be inserted for at least four weeks before the said day in each of the said years ;

Lists to be
prepared.

6. The Registrar shall forthwith, after the 1st day of August aforesaid, prepare a list of the persons and organizations appearing to be entitled to vote for a person to be recommended for appointment to each of the said Councils respectively, and may refer any doubtful claim to the Minister of Agriculture for his advice or direction ;

7. Each list so to be prepared shall give the last known post office address of every person and organization entitled to vote as employers and employees respectively for the said Councils respectively, and shall be published in the *Ontario Gazette*, and shall be open to inspection at any time by any person without fee, in the office of the Registrar during office hours ;

Voting papers
to be
transmitted
to persons en-
titled to vote.

8. Between the 1st and 30th days of September, 1898, and between the same days of every second year thereafter, the

Registrar shall transmit by post to the address of each person and organization entitled to vote, a voting paper; and such voting paper may be in the following form:—

Voting paper of (*naming the person or organization.*)

A. B. (*person recommended*) is hereby recommended to be appointed a member of the council of arbitration for disputes between railway companies and their employees (or in matters not relating to railway disputes) under *The Ontario Trade Disputes Conciliation and Arbitration Act*, on behalf of the employers (or employees, as the case may be);

(Signed)

9. The voting paper of any person entitled to vote under this Act as an employer shall be signed by himself or some person duly authorized in writing in that behalf; and the voting paper of any organization entitled to vote shall be signed by the president or vice-president of the organization, or, in the absence of such president or vice-president, by any office bearer of the organization other than the secretary thereof, and shall be countersigned by the secretary or acting secretary, or, in the absence of such secretary or acting secretary, by any two members not being office bearers. The voting papers of a Board of Trade shall be under the corporate seal of the Board;

Signing voting papers.

10. The voting paper shall be forwarded in a stamped envelope, addressed to the Registrar of Councils of Conciliation and Arbitration, Toronto, and endorsed, "Voting paper under *The Ontario Trade Disputes Conciliation and Arbitration Act*."

Addressing voting papers.

11. Every voting paper shall be forwarded by mail or otherwise to the Registrar so as to be received by him on or before the 15th day of October of the year in which the voting is to be held and any voting paper received by the Registrar after the said date shall have no effect or validity;

When voting papers to be mailed.

Voting papers not received in time.

12. The Registrar shall forthwith after the said 15th day of October, count the recommendations as well by or on behalf of employees, as by or on behalf of employers for each Council, and shall forward the same to the Minister of Agriculture, together with the Registrar's report thereon; and the Minister of Agriculture, upon being satisfied of the accuracy of such report, shall publish in the *Ontario Gazette* the result of such recommendations, and the names of the persons appointed by the Lieutenant-Governor upon such recommendations to be members of the Councils of Arbitration; and also the names of, and number of votes to, the five persons who have received the greater number of votes for each Council on behalf of employers and employees respectively; 57 V. c. 42, s. 15 (1-13).

Count of votes and report to be published.

13. In case either employers or employees, or both, fail to recommend any person to represent them on either or both the Councils as provided for in this section, the Lieutenant-Governor-in-Council may appoint a person or persons to fill the vacancy or vacancies. 60 V. c. 25, s. 2.

Where parties fail to recommend member of council of arbitration.

PROCEDURE FOR ARBITRATION.

Reference to arbitration, how made, etc.

16. Any dispute or claim within the meaning of this Act may be referred to the appropriate Council of Arbitration for its hearing and determination in any of the following cases :—

1. On application as in Form I, in the Schedule hereto, to the Registrar by either party to a dispute or claim which, having been referred to a Council of Conciliation, has not been settled or adjusted by such Council.

2. On application, as in Form H, in the Schedule hereto, to the Registrar by both parties to a dispute or claim within the meaning of this Act, which has not been so referred to a Council of Conciliation.

Proviso.

Provided that if in either case the award of the Council of Arbitration is not complied with or carried out by the parties, or for any reason proves abortive, the parties to the reference or either of them shall not thereby be precluded from referring the dispute to a Council of Conciliation or from making a second reference to the Council of Conciliation where a former reference has already been made to it.

Where attempt to take conciliation proceedings has failed.

3. If in case of a claim or dispute within the meaning of this Act, one party has lodged an application with the Registrar requesting that the dispute or claim be referred to a Council of Conciliation; and appointing two conciliators for the purpose and notice of the application and of the appointment of conciliators has been duly given to the other party, and such other party has not within a reasonable period appointed conciliators, and the party lodging the application has not proceeded to a strike or lock-out, as the case may be, the Council of Arbitration, if it thinks fit, may proceed as in case of an abortive reference to a Council of Conciliation, and such Council may report their decision, as to the proper settlement of the dispute in question and also in case the Council thinks proper, a concise statement as to the origin of the dispute, and the causes inducing the same, and what parties, if any, are in the opinion of the Council mainly responsible for the same. 57 V. c. 42, s. 16.

Mayors to notify registrar of strike or lock-out.

4. The Mayor of any city or town upon being notified that a strike or lock-out is threatened, or has actually occurred within the municipality, shall at once notify the Registrar thereof by writing, stating the name of the employer, the nature of the dispute, and the number of employees involved, as far as his information will enable him so to do.

Duty of Councils of arbitration on being notified of strike or lock-out.

5. It shall be the duty of each of the Councils of Arbitration appointed under the said Act upon being notified, or on being otherwise made aware, that a strike or a lock-out has occurred

or is threatened, to place itself, as soon as practicable, in communication with the parties concerned and to endeavor by mediation to effect an amicable settlement, and if in the judgment of the council it is deemed best to enquire into the cause or causes of the controversy it shall proceed as provided in this Act in the case of a reference. 60 V. c. 25, s. 3.

17. In every case referred to a Council of Arbitration, or in which the Council has determined to act under the preceding section of this Act, the Council shall have power to require, either or each party to the claim or dispute to name not more than three persons, who, upon their consent in writing, (Form O) shall for all purposes of the reference be taken to represent such party. 57 V. c. 42, s. 17. 60 V. c. 25, s. 4.

Provisions as to parties and representatives.

18. The Council of Arbitration shall sit and conduct its proceedings as in open court, and in making its decisions shall be governed by the principles of equity and good conscience. The President shall for the purpose of preserving order during any sitting of the Council have all the powers of a Judge of the High Court of Justice, save that he shall not have the power of committing for contempt. 57 V. c. 42, s. 18.

Conduct of proceedings of council of arbitration.

19. Any two members of the Council of Arbitration shall constitute a quorum for the transaction of business, and may hold meetings at any time and at any place within the Province of Ontario. 60 V. c. 25, s. 5 (1, 2).

Quorum of council of arbitration.

20. The Council of Arbitration may order that an examination or investigation shall be held before any one member of the Council, but such member shall report upon such examination or investigation to the Council, and the decision of such member shall not be considered binding until approved by the Council or a majority thereof. 60 V. c. 25, s. 5 (3).

Investigation of disputes by one member of board.

21.—(1) The report or award (Form K) of the Council of Arbitration shall be made within one month after the Council has completed its sittings for the hearing of the reference, and shall be by, and under the hands of, a majority of the members of the Council.

Award, how to be made.

(2) At the request of either party and if the Council of Arbitration approve, a copy of the report or award shall be published by the Registrar in *The Ontario Gazette*.

(3) The report or award, or a copy certified under the hand of the President of the said Council, shall be deposited in the office of the Registrar, and shall be open to inspection without charge during office hours. 57 V. c. 42, s. 19,

22. Either party to a reference to either Council of Arbitration at any time before award made, may by writing under the hands of such party (Form L) agree to be

Award may be entered by legal process if so agreed.

Rev. Stat.
c. 62.

bound by the award of the Council upon the reference, in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under *The Arbitration Act*. Every agreement so to be bound made by one party shall be communicated to the other party by the Registrar, and if such other party also agrees in like manner to be bound by the award, then the award may, on the application of either party, be enforced in the same manner as an award on an ordinary submission in writing to arbitration may be enforced under the said Act. 57 V. c. 42, s. 20.

MISCELLANEOUS PROVISIONS.

Powers of
Councils.

23. For the purposes of this Act, the Councils of Conciliation and Arbitration shall have power—

To visit
locality.

(a) To visit the locality where the trade dispute has arisen and to hear all persons interested who may come before them;

Enforcing
attendance of
v

(b) To summon (Form P) any person to attend as a witness before the Council, and in the case of any person so summoned refusing to attend, application may be made in a summary way to a Justice of the Peace having jurisdiction in the city, town or county wherein the council may be sitting for an order compelling such attendance; and such Justice of the Peace is hereby empowered to make such order as might be made in any case wherein such Justice has power to compel appearance before him in pursuance of *The Ontario Summary Convictions Act*;

Rev. Stat.
c. 90.

Taking evi-
dence on oath.

(c) To administer an oath or to take the affirmation of any person attending as a witness before the Council, and to examine any such person on oath or affirmation. 57 V. c. 42, s. 21.

Professional
assistance not
permitted.

24. No party to any proceeding either before a Council of Conciliation or a Council of Arbitration shall be represented by counsel or attorney or by any paid agent other than one or more of the persons between whom the dispute or claim has arisen. 57 V. c. 42, s. 22.

Registrar not
to receive fees.

25. No fees shall be paid to the Registrar by any party in respect of any proceeding under this Act. 57 V. c. 42, s. 23.

Remuneration
of members of
Council of
Conciliation.

26. Every member of any such Council of Conciliation while engaged in adjustment of any dispute shall be remunerated for his services as follows:—

Preliminary meetings.....	\$3
Whole-day sittings.....	\$4
Half-day sittings	\$2

out of any funds which may be provided by the Legislature for that purpose. 57 V. c. 42, s. 24.

27. Witnesses shall be entitled to the same fees as in a Witness fees, Division Court. 57 V. c. 42, s. 25.

28.—(1) The Lieutenant-Governor may make regulations Regulations, for the purpose of giving effect to any of the provisions or requirements of this Act, and all such regulations not being inconsistent with this Act shall have the full effect of law on publication in the *Ontario Gazette*.

(2) Such regulations shall be laid before the Legislative Assembly within fourteen days after being published in the *Ontario Gazette* if the Legislature is in session; and if it is not in session, then such regulations shall be laid before the Assembly within fourteen days from the date of the first day of the ensuing session of the Legislature. 57 V. c. 42, s. 26.

29. The forms in the Schedule hereto or any other forms Forms authorized, to the like effect, may be used for the purposes mentioned, with such alterations as the nature of the dispute or claim, the description of the Council to which it is referred, the character of the parties or the circumstances of the case may render necessary. 57 V. c. 42, s. 27.

30. No proceeding under this Act shall be deemed invalid Informalities not to invalidate proceedings, by reason of any defect of form, or any technical irregularity. 57 V. c. 42, s. 28.

SCHEDULE.

FORM A.

(Section 14, sub-s. 3.)

RECOMMENDATION AS TO PRESIDENT OF THE COUNCIL OF ARBITRATION.

We, the undersigned arbitrators, appointed under the provisions of *The Ontario Trade Disputes Conciliation and Arbitration Act*, submit the name of _____ of _____, as that of an impartial person, qualified for the position of President of the Council of Arbitration as respects railway disputes (or as respects disputes other than railway disputes).

Dated this _____ day of _____

FORM B.

(Section 6.)

AGREEMENT OF BOTH PARTIES TO REFER TO CONCILIATION.

(To be prepared in duplicate.)

Memorandum of agreement made this _____ day of _____
A.D. _____, between _____ employers and _____ employees.

Whereas a dispute or claim in respect of matters hereinafter stated has arisen between the parties hereto, the parties hereto do hereby refer

the said dispute or claim for settlement to a council of conciliation, and we, the undersigned, as managers for the said employers, do hereby name and declare _____ and _____ to be conciliators for such employers; and we, the undersigned, as managers for the employees, do hereby name _____ and _____ to be the conciliators for such employees upon such council as aforesaid.

The dispute or claim is as follows (*here state the matter or matters in dispute*).

Now, we, the parties hereto, do hereby request the Registrar to have the said dispute or claim referred to a council of conciliation consisting of the aforesaid persons.

(*To be signed by the*)

Managers for the Employers.

Managers for the Employees.

Witness :

(*Appointment of Managers to be attached*).

See Form D.

FORM C.

(*Section 6.*)

APPLICATION BY ONE PARTY TO REFER TO CONCILIATION.

(*Date.*)

Whereas a dispute or claim, has arisen between _____, employers and _____ employees; we, the undersigned managers for and on behalf of the _____ aforesaid, apply to have the said dispute or claim referred to a council of conciliation, and hereby name and declare _____ of _____ and _____ of _____ to be our conciliators upon such council as aforesaid.

The dispute or claim is as follows (*here state the matter or matters in dispute*).

Managers for

(*Appointment of Managers to be attached.*)

See Form D.

FORM D.

(*Section 9.*)

AUTHORITY TO MANAGERS TO ACT.

We, the undersigned employers (*or employees*), one of the parties to the dispute or claim between _____ and _____ authorize _____ of _____ of _____ and _____ of _____ to represent us, as managers before the council of conciliation and we hereby agree to be bound by the acts of these our representatives.

Dated this _____ day _____ A.D. 189 _____.

(*Where the appointment is made by employees it should be signed by not fewer than ten of such employees.*)

Witness :

FORM E.

(Section 12.)

CONVENING A MEETING OF CONCILIATORS.

(Date.)

I beg to inform you that you have been selected as a conciliator to deal with a certain dispute or claim between _____, employers and _____ employees.

You are requested to attend a meeting of the conciliators in the above matter, to be held on the _____ day of _____ at _____ in the _____ when the application in the said matter will be laid before you.

I have the honour to be

Your obedient servant,

A. B., Registrar

FORM F.

(Section 13.)

TERMS OF SETTLEMENT OR ADJUSTMENT AFTER REFERENCE TO COUNCIL OF CONCILIATION.

Memorandum of settlement made this _____ day of _____ A.D. , between _____, employers and _____ employees.

Whereas a dispute or claim having arisen between _____, employers and _____ employees were appointed conciliators, and the undersigned _____ were appointed managers for the said _____ and the undersigned, _____ were appointed managers for the said _____ it is hereby declared that a settlement or adjustment of the said dispute or claim has been arrived at in the following terms, to which terms the said managers hereby agree for and on behalf of the said parties respectively :

(Insert terms of settlement.)

In Witness whereof we, the undersigned, have hereunto set our hands.

A. B., C. D., Managers for Employers.

E. F., G. H., Managers for Employees.

I., J., K., Conciliators.

FORM G.

(Section 13.)

REPORT BY CONCILIATORS OF FAILURE TO SETTLE.

(Date.)

To the Registrar.

Whereas a certain dispute or claim was referred to us for conciliation by _____, employers and _____ employees, and such conciliation was duly entered upon, the parties aforesaid being duly represented by their respective managers and evidence was taken (*omit the latter words if such was not the case*), and the dispute or claim referred to us was fully discussed, but no settlement or adjustment was arrived at. Now, we, the conciliators hereinafter subscribed, report that we have been unable to bring about any settlement or adjustment of the dispute or claim so referred, satisfactory to the parties thereto.

A., B., C., D., Conciliators.

FORM H.

(Sections 13 and 16.)

JOINT APPLICATION TO REFER TO THE COUNCIL OF ARBITRATION.

(Date.)

To the Registrar under The Trade Disputes Act.

Whereas a dispute or claim in respect of matters hereinafter stated has arisen between _____, employer and _____ employees.

We, the undersigned, _____ managers for the said employers, and we, the undersigned, _____ managers for the said employees, duly appointed to represent the interests of the said parties respectively, hereby apply to have the said dispute or claim referred to the council of arbitration.

The dispute or claim is as follows .

(Here state the matter in dispute.)

Managers for Employers.

Managers for Employees.

(Appointment of Managers to be attached.)

See Form D.

FORM I.

(Sections 13 and 16.)

APPLICATION BY ONE PARTY TO REFER TO THE COUNCIL OF ARBITRATION
AFTER FAILURE OF COUNCIL OF CONCILIATION.

(Date.)

To the Registrar under The Trade Disputes Act.

Whereas a dispute or claim having arisen between _____, employers, and _____ employees, was referred to a council of conciliation, and the said council failed to settle or adjust the same ; now, therefore, we, the undersigned, being the managers duly appointed to represent _____, one of the parties to the said reference, do hereby require you to refer the said dispute or claim to the council of arbitration.

Managers.

FORM J.

(Section 13, sub-s. 2.)

REFERENCE TO COUNCIL OF ARBITRATION AFTER FAILURE OF COUNCIL
OF CONCILIATION.

(Date.)

To the President of the Council of Arbitration as respects railway disputes (or as respects disputes other than railway disputes.)

Whereas a certain dispute or claim having arisen between _____ and _____ the same was referred for conciliation to _____, and they have reported that they have been unable to bring about any settlement or adjustment of the said dispute or claim satisfactory to the parties thereto, and whereas _____ one of the parties to the dispute or claim, requires such dispute or claim to be referred to the council of arbitration. Now therefore, I do so refer the said dispute or claim to the said council, and herewith transmit all the papers in the said reference to you as president of the said council.

Registrar.

FORM K.

(Section 21.)

FORM OF AWARD.

We, President and Arbitrators as respects
railway disputes (or as respects disputes other than railway disputes) (or
a majority of the council of arbitration), in the dispute or claim between
 , employers and employees, do hereby award that
(here set forth the award.)

Given under our hands this day of A.D. 189 .

(President.)
(Arbitrators.)

Witness :

(Registrar.)

FORM L.

(Section 22.)

AGREEMENT TO TO BE BOUND BY AWARD.

Memorandum of Agreement made this day of
A.D. 189 , between and

Whereas certain disputes or claims (*here state shortly the nature of the dispute or claim*) have arisen between the parties hereto, and it is desirable to refer the same to the council of arbitration as respects railway disputes (*or as respects disputes other than railway disputes*) and for the said parties to be bound by the award of the said council of arbitration in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under "The Arbitration Act."

Now it is hereby agreed by and between the parties aforesaid to refer the said disputes or claims to the award of the said council of arbitration, and each of the said parties agrees with the other to be bound by the award of the said council in the same manner as parties are bound upon an award made pursuant to an ordinary submission in writing to arbitration under "The Arbitration Act."

In Witness Whereof, we, the managers duly appointed and authorized to represent the parties hereto, have hereunto set our hands the day and year above written.

Witness:

Managers for Employers.

Managers for Emplo

FORM M.

(Section 14, sub-s. 14.)

CONSENT OF PARTIES TO CONCILIATORS BEING ASSESSORS IN COUNCIL OF ARBITRATION.

(Date.)

We, the managers appointed to represent the parties in the matter of the dispute between , employers, and , employees, hereby consent to members of the council of conciliation to which the matter aforesaid was referred, sitting as assessors upon the reference to the council of arbitration.

Managers for Employers.

Managers for Employees.

FORM O.

(Section 17.)

CONSENT OF MANAGERS TO ACT BEFORE THE COUNCIL OF ARBITRATION.

(Date.)

To the Registrar.

Whereas the council of arbitration has required one of the parties to a dispute or claim between and referred to the said Council for award, to name not more than three persons, who, upon their consent in writing, shall for all purposes of the above reference be taken to represent such persons; now we, the undersigned, having been duly named as such persons, do hereby consent to represent the said party for all the purposes of the hereinbefore mentioned reference, and in witness of such consent hereunto set our hands.

(Signed)

Witness :

FORM P.

(Sections. 4 and 23.)

SUMMONS TO WITNESSES BEFORE EITHER COUNCIL.

To

Whereas a council of conciliation (or the council of arbitration as respects railway disputes (or as respects disputes other than railway disputes) constituted under *The Ontario Trade Disputes Conciliation and Arbitration Act*, has now before it for conciliation (or arbitration, as the case may be), a dispute or claim between , employers, and , employees; and whereas the said desire that you should attend before the said council witness to give evidence, and have authorized and required me as registrar, to issue this summons for your attendance, I do hereby, in exercise of the powers in this behalf given by the said Act, summon and require you to attend at , on , the day of at the hour of , in the noon of the said day, at , before the said council, there to be examined and give evidence as to and concerning the said dispute or claim, and so to attend from day to day thereafter until you have been duly discharged by the said council from further attendance.

[And I further require you to bring with you and produce at the time and place aforesaid (documents, etc., if any, required to be produced by witness.)]

In default of your attending at the time and place aforesaid, you are liable to be proceeded against under the provisions of *The Ontario Trade Disputes Conciliation and Arbitration Act*.

In witness whereof, I, the said , as such Registrar as aforesaid, have hereunto set my hand this day of , in the year of our Lord, 18 .

A.B.,

Registrar.

NOTE.—The witness is entitled to the same witness fees as in a Division Court.

CHAPTER 159.

An Act to facilitate the adjustment of disputes between Masters and Workmen.

SHORT TITLE, s. 1.
 BOARD OF ARBITRATION, ss. 2-26.
 Agreement to form, ss. 2, 3.
 Registration of memorandum
 of agreement, ss. 4, 5.
 Formal defects, s. 6.
 Composition and appointment, ss.
 7, 8, 19.
 Powers, ss. 9, 10.
 Award, s. 11.
 Enforcement of, s. 12.
 Evidence of, s. 13.
 Quorum, s. 14.
 Committee of Reconciliation, s. 15.

Chairman, s. 16.
 Employment of counsel, s. 17.
 Duration of—filling of vacancies
 in, s. 18.
 Voters—Qualification, s. 20.
 Registration, ss. 21, 22.
 Returning officers, s. 23.
 Elections, ss. 24-26.
 FEES, BY-LAWS, OFFICERS, ETC., s. 27.
 FUTURE RATE OF WAGES MAY BE
 FIXED, s. 28.
 DOMESTIC AND FARM SERVANTS NOT
 AFFECTED, s. 29.

HER MAJESTY, by and with the advice and consent of
 the Legislative Assembly of the Province of Ontario,
 enacts as follows:—

Short title.

1. This Act may be cited as "*The Trades Arbitration Act.*"
 R. S. O. 1887, c. 140, s. 1.

Board of
 Arbitration.

2. Any number of masters and workmen resident and
 actually engaged at the time of filing the memorandum here-
 inafter mentioned in carrying on or working at any particular
 trade, occupation, or employment, in any city, town, town-
 ship or village in this Province, may at a meeting specially
 convened for that purpose, agree to form a Board under this
 Act for the friendly settlement of differences between masters
 and workmen. R. S. O. 1887, c. 140, s. 2.

Memorandum
 to be signed.

3.—(1) The masters and workmen shall jointly sign a mem-
 orandum, whereby it is mutually agreed to establish such
 Board.

(2) The memorandum shall set forth the number of the
 members of the Board, and also the names, occupation and resi-
 dence of the signers of the memorandum, and shall be in the
 form of the Schedule to this Act, or to a similar effect. R. S. O.
 1887, c. 140, s. 3.

4. Upon the filing of the memorandum, with affidavits verifying the signatures thereto, in the registry office of the registry division within which the masters and workmen reside, the Board shall be deemed to be lawfully established. Registration of memorandum.
R. S. O. 1887, c. 140, s. 4.

5. The registrar shall retain the memorandum and enter Fee. a copy of the same in a book to be kept for that purpose; for which and the filing of the memorandum he shall be entitled to receive the sum of \$2 and no more. R. S. O. 1887, c. 140, s. 5.

6. No defect in the form of the memorandum, or in the filing and registration thereof shall invalidate the efficiency of any of the proceedings to be taken thereunder under the provisions of this Act. Defects of form in memorandum.
R. S. O. 1887, c. 140, s. 6.

7. The Board shall consist of not less than two masters and two workmen, nor more than ten masters and ten workmen and a chairman, and the number to constitute the Board other than the chairman shall be inserted in the memorandum; but no member of the Board shall adjudicate in any case in which he or any relation of his is one of the parties. Board, how composed.
R. S. O. 1887, c. 140, s. 7.

8. The persons who have signed the memorandum are hereby authorized to proceed to the appointment of the Board within sixty days after the registry of the memorandum, the masters appointing their portion of the Board from among themselves, and the workmen their portion from among themselves; and the Board shall remain in office until the appointment of a new Board in its stead. Appointment of Board.
R. S. O. 1887, c. 140, s. 8.

9. The Board shall have power to appoint their own chairman and two clerks, one for the masters and the other for the workmen's portion thereof; and shall have power to hear and determine all questions of dispute and differences between the masters and workmen, who are signers of the memorandum, or who may at any time become parties thereto, by a written notice to the chairman or clerks of the Board, which disputes and differences may be submitted to them by both parties in difference. Powers of Board.
R. S. O. 1887, c. 140, s. 9.

10. The Board shall also have and exercise all the powers conferred upon arbitrators by *The Arbitration Act*. Board to have powers given by Rev. Stat. c. 62.
R. S. O. 1887, c. 140, s. 10.

11. Any award the Board may make in any case of disputes or differences so submitted to them shall be final and conclusive between the parties thereto, without being subject to review or challenge by any Court or authority whatsoever. Award.
R. S. O. 1887, c. 140, s. 11.

Enforcing
award.

12. The award may be enforced upon summary application to the Judge of the County Court of the county in which the Board is formed; and the Judge is hereby authorized to enforce the award by the order of the Court and process of execution to be issued thereupon. R. S. O. 1887, c. 140, s. 12.

Evidence of
award.

13. Any award, in writing, under the hand of the chairman of the Board, shall be deemed sufficient evidence of the validity of the award to authorize such proceedings by the Judge. R. S. O. 1887, c. 140, s. 13.

Quorum.

14. A quorum of not less than three (one being a master and another a workman, and the third the chairman), may constitute a Board for the hearing and adjudication of cases of dispute, and may accordingly make their award. R. S. O. 1887, c. 140, s. 14.

Committee
of reconcilia-
tion.

15. A committee of the Board, to be denominated the Committee of Reconciliation, shall be appointed by the Board, consisting of one master and one workman, who shall sit at such times as shall be appointed, and shall be renewed from time to time as occasion may require; and all cases or questions of dispute which are submitted to the Board by both parties thereto, shall in the first instance be referred to the Committee, who shall endeavour to reconcile the parties in difference; when such reconciliation is not effected, the matter in dispute shall be remitted to the Board to be disposed of as a contested matter. R. S. O. 1887, c. 140, s. 15.

Chairman.

16. The chairman of the Board shall be appointed at the first meeting, and shall be some person unconnected with trade; he shall preside at the meetings of the Board, and when the votes of the Board are equal, the chairman for the time being shall have the casting vote. R. S. O. 1887, c. 140, s. 16.

When parties
may employ
counsel.

17. No counsel or solicitor, shall be allowed to attend on any hearing before the Board or the Committee of Reconciliation, unless with the consent of both parties. R. S. O. 1887, c. 140, s. 17.

Duration of
Board.

18. On the first Monday in November, in the year after the appointment of the first Board, and on the first Monday in November in each succeeding year, a Board and chairman shall be appointed, who shall remain in office until the appointment of a new Board; and in case of vacancies arising between the fixed days of election in each year, caused by the death or removal of any member of the Board, or of the chairman, an election shall take place within fourteen days, and to fill the said vacancy, another member shall be elected from the class to which the member who has died or removed belonged or a chairman shall be appointed, as the case may be, and the

Vacancies.

member or chairman so elected shall serve for the remainder of the year. R. S. O. 1887, c. 140, s. 18.

19. The masters shall appoint their portion of the Board, Composition of Board. and the workmen their portion of the Board. R. S. O. 1887, c. 140, s. 19.

20. For the purposes of this Act, the following persons Qualification of Voters. being twenty-one years of age, and belonging to the particular trade to which the registered memorandum applies, shall be entitled to be registered as voters for the election of the Board, and shall be qualified to be elected members of the Board :

1. Every master who has been engaged in carrying on the Masters. said trade within the limits of the city, town, township, or village wherein the Board is formed; for three months previous to the first day of November in any one year ;

2. Every workman who has served the regular term of ap- Workmen. prenticeship required in such trade or calling, and has been working at his said trade for a like period within the same limits, and has signed the memorandum, or has given notice to the chairman or clerks of his assent thereto. R. S. O. 1887, c. 140, s. 20.

21.—(1) The clerk of each division of the Board shall respect- Registration of Voters. ively keep a register of every person claiming to be entitled to have his name inscribed on the register as a voter for the Board, as master or workman respectively and distinct from each other.

(2) The register shall contain the name and abode of each person engaged in the particular trade or occupation set forth in the registered memorandum.

(3) The clerk shall, upon payment of a fee of ten cents made to him register the same immediately, or be liable to be fined for neglect.

(4) The Board is hereby empowered to fix and determine the amount of such fine, but not to exceed the sum of \$5, and all such fines shall be applied to the funds of the said Board. R. S. O. 1887, c. 140, s. 21.

22. In case it appears to the masters' or workmen's division of the Board respectively that any person ought not to be so registered as master or workman respectively, such division shall order the name of such person to be struck off such register. Removal of name from register. R. S. O. 1887, c. 140, s. 22.

23. The clerk of each division of the Board shall be the Returning Officers. returning officer, and for the election of the masters' and workmen's portion thereof respectively, he shall convene meetings of masters and meetings of workmen respectively by advertise-

ment or circular notice fourteen clear days previous to the first day of November of each year. R. S. O. 1887, c. 140, s. 23.

Elections.

24. Each class shall at such meetings proceed to nominate and elect members to the Board for the year next ensuing. R. S. O. 1887, c. 140, s. 24.

Mode of election.

25. The votes shall be taken by show of hands or division of members, and in such place as each division of the Board may respectively authorize, and the clerk shall declare to the meeting the names of the candidates who are elected, and the same shall be final and conclusive. R. S. O. 1887, c. 140, s. 25.

Declaration of elections.

26. The clerk shall, within seven days after the day of nomination, declare the number of votes given to each candidate, and those having received the largest number of votes shall be declared duly elected. R. S. O. 1887, c. 140, s. 26.

Fees, by-laws officers, etc.

27. Every Board constituted under this Act shall from time to time make out a list of fees which shall be charged for any proceeding and other expenses under this Act; and shall appoint such officers as may be necessary, and make such by-laws, rules and regulations for their guidance, and for the taking and scrutiny of the votes given for the election of members of the Board; and also for the despatch of business, as they may deem necessary; such by-laws, rules, regulations and fees not being contrary to law. R. S. O. 1887, c. 140, s. 27.

Masters and workmen may authorize Board to establish rate of wages.

28. The masters and workmen making the agreement or memorandum mentioned in section 3 of this Act may by such memorandum or agreement authorize the Board to establish a rate of wages or price of labour or workmanship, at which the workmen shall in future be paid. 53 V. c. 40, s. 1.

Persons not affected by this Act.

29. This Act shall not be construed to extend to domestic servants, or servants in husbandry. R. S. O. 1887, c. 140, s. 29.

SCHEDULE.

(Section 3.)

FORM OF MEMORANDUM.

Memorandum of agreement under *The Trades Arbitration Act*, between us, the undersigned masters and workmen engaged in the trade, employment or occupation of _____ at the _____ of _____ in the County of _____ whereby we, the undersigned, mutually

agree to establish a Board for the settlement of differences between us, under the said Act.

Such Board shall (besides the Chairman) consist of
masters and the like number of workmen.

The names, occupation and residence of the undersigned masters are as follows :

NAMES.	OCCUPATION.	RESIDENCE.

The names, occupation and residence of the undersigned workmen, are as follows :—

NAMES.	OCCUPATION.	RESIDENCE.

Dated the _____ day of _____ , A. D. 18 ____ .
Witness. _____ Signatures.

R. S. O. 1887, c. 140, Sched.

CHAPTER 160.

An Act to secure Compensation to Workmen in certain cases.

SHORT TITLE, s. 1.	LIABILITY OF PERSONAL REPRESENTATIVE, s. 11.
INTERPRETATION, s. 2.	DEDUCTION OF PENALTIES FROM COMPENSATION, s. 12.
CLAIMS AGAINST EMPLOYERS, ss. 3, 4.	NOTICE OF INJURY, s. 13.
INJURY BY RAILWAYS, s. 5.	DEFENCE OF WANT OF NOTICE, OR NOT EMPLOYER, s. 14.
COMPENSATION :	PARTICULARS OF DEMAND, s. 15.
Exceptions negating right to recover, s. 6.	APPOINTMENT OF ASSESSORS, ss. 16-24.
Limit of amount, s. 7.	CONSOLIDATION OF ACTIONS, ss. 25-30.
How compensation may be distributed, s. 8.	ADMISSIONS BY NOTICE, s. 31.
Limit as to time for recovery, s. 9.	COMPUTATION OF TIME, s. 32.
DEFENCES UNDER AGREEMENTS, s. 10.	FORMS AND RULES, s. 33.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

Short title.

1. This Act may be known and cited as "*The Workmen's Compensation for Injuries Act.*" 55 V. c. 30 s. 1.

Interpretation.

2. Where the following words occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears:—

"Superintendence."

1. "Superintendence" shall be construed as meaning such general superintendence over workmen as is exercised by a foreman, or person in a like position to a foreman, whether the person exercising superintendence is or is not ordinarily engaged in manual labour.

"Employer."

2. "Employer" shall include a body of persons corporate or unincorporate, and also the legal personal representatives of a deceased employer, and the person liable to pay compensation under section 4 of this Act. 55 V. c. 30, s. 2 (1, 2).

"Workman."

3. "Workman" does not include a domestic or menial servant or servant in husbandry, gardening or fruit growing, where the personal injury caused to any such servant has been occasioned by or has arisen from or in the usual course of his work or employment as a domestic or menial servant, or as a

servant in husbandry, gardening or fruit-growing, but, save as aforesaid, means any railway servant and any person who being a labourer, servant, journeyman, artificer, handicraftsman, miner or otherwise engaged in manual labour, whether under the age of twenty-one years or above that age, has entered into or works under a contract with an employer, whether the contract is made before or after the passing of this Act, is expressed or implied, oral or in writing, and is a contract of service or a contract personally to execute any work or labour. 56 V. c. 26, s. 1.

4. "Packing" shall mean a packing of wood or metal, "Packing." or some other equally substantial and solid material, of not less than two inches in thickness, and which, where filled in, shall extend to within one and a half inches of the crown of the rails in use on any railway, shall be neatly fitted so as to come against the web of such rails, and shall be well and solidly fastened to the ties on which such rails are laid.

5. "Railway servant" shall mean and include a railway servant, tramway servant and street railway servant. 55 V. c. 30, s. 2 (4-5). "Railway servant."

3. Where personal injury is caused to a workman—

When workman to have claim against employer.

1. By reason of any defect in the condition or arrangement of the ways, works, machinery, plant, buildings or premises connected with, intended for or used in the business of the employer; or

2. By reason of the negligence of any person in the service of the employer who has any superintendence entrusted to him whilst in the exercise of such superintendence; or

3. By reason of the negligence of any person in the service of the employer to whose orders or directions the workman at the time of the injury was bound to conform and did conform, where such injury resulted from his having so conformed; or

4. By reason of the act or omission of any person in the service of the employer done or made in obedience to the rules or by-laws of the employer, or in obedience to particular instructions given by the employer or by any person delegated with the authority of the employer in that behalf; or

5. By reason of the negligence of any person in the service of the employer who has the charge or control of any points signal, locomotive, engine, machine, or train upon a railway, tramway or street railway;

the workman, or, in case the injury results in death, the legal personal representatives of the workman, and any persons

entitled in case of death, shall have the same right of compensation and remedies against the employer as if the workman had not been a workman of, nor in the service of the employer, nor engaged in his work. 55 V. c. 30, s. 3.

Employer,
who to be
deemed.

4.—(1) Where the execution of any work is being carried into effect under any contract, and

- (a) The person for whom the work, or any part thereof, is done, owns or supplies any ways, works, machinery, plant, buildings, or premises used for the purpose of executing the work; and
- (b) By reason of any defect in the condition or arrangement of such ways, works, machinery, plant, buildings or premises, personal injury is caused to any workman employed by the contractor or by any sub-contractor; and
- (c) The defect or the failure to discover or remedy the defect arose from the negligence of the person for whom the work or any part thereof is done, or of some person being in his service and entrusted by him with the duty of seeing that such condition or arrangement is proper;

the person for whom the work, or that part of the work is done shall be liable to pay compensation for the injury as if the workman had been employed by him, and for that purpose shall be deemed to be the employer of the workman within the meaning of this Act. Provided, always, that any such contractor or sub-contractor shall be liable to pay compensation for the injury as if this section had not been enacted, so however that double compensation shall not be recoverable for the same injury.

(2) Nothing in this section contained shall affect any rights or liabilities of the person for whom the work is done and the contractor and sub-contractor (if any) as between themselves. 55 V. c. 30, s. 4.

Injuries by
railways.

5. Where within this Province personal injury is caused to a workman employed on or about any railway,

- 1. By reason of the lower beams or members of the superstructure of any highway, or other overhead bridge, or any other erection or structure over said railway, not being of a sufficient height from the surface of the rails to admit of an open and clear headway of at least seven feet between the top of the highest freight cars then running on such railway, and the bottom of such lower beams or members; or,

2. By reason of the space between the rails in any railway frog, extending from the point of such frog backward to where the heads of such rails are not less than five inches apart, not being filled in with packing; or,
3. By reason of the space between any wing-rail and any railway frog, and between any guard-rail and any other rail fixed and used alongside thereof as aforesaid, and between all wing-rails where no other rail intervenes, (save only where the space between the heads of any such wing-rail and railway frog as aforesaid, or between the heads of any such guard-rail and any other rail fixed and used alongside thereof as aforesaid, or between the heads of any such wing-rails where no other rail intervenes as aforesaid, is either less than one and three-quarters of an inch or more than five inches in width), not being at all times during every month of April, May, June, July, August, September, October, and November filled in with packing;

such injury shall be deemed and taken to have been caused by reason of a defect within the meaning of clause numbered 1 of section 3 of this Act, but nothing in this section contained shall be taken or construed, as in any respect, or for any purpose restricting the meaning of the said clause. 55 V. c. 30, s. 5. 60 V. c. 15, Sched. A (57).

6. A workman, or his legal representatives, or any person entitled in case of his death, shall not be entitled under this Act to any right of compensation or remedy against the employer in any of the following cases, that is to say:

Exceptions to preceding provisions.

1. Under clause 1 of section 3, unless the defect therein mentioned arose from or had not been discovered or remedied owing to the negligence of the employer or of some person entrusted by him with the duty of seeing that the condition or arrangement of the ways, works, machinery, plant, building or premises are proper.

2. Under clause 4 of section 3, unless the injury resulted from some impropriety or defect in the rules, by-laws, or instructions therein mentioned; provided, that where a rule or by-law has been approved, or has been accepted as a proper rule or by-law, either by the Lieutenant-Governor in Council, or under and pursuant to any provision in that behalf of any Act of the Legislature of Ontario, or of the Parliament of Canada, it shall not be deemed for the purposes of this Act to be an improper or defective rule or by-law.

3. In any case where the workman knew of the defect or negligence which caused his injury, and failed without reasonable excuse to give or cause to be given within a reasonable

time, information thereof to the employer or some person superior to himself in the service of his employer, unless he was aware that the employer or such superior already knew of the said defect or negligence. Provided, however, that such workman shall not, by reason only of his continuing in the employment of the employer with knowledge of the defect, negligence, act, or omission, which caused his injury, be deemed to have voluntarily incurred the risk of the injury. 55 V. c. 30, s. 6. 60 V. c. 14, s. 85.

Limit of amount of compensation.

7. The amount of compensation recoverable under this Act shall not exceed either such sum as may be found to be equivalent to the estimated earnings, during the three years preceding the injury of a person in the same grade employed during those years in the like employment within this Province, or the sum of fifteen hundred dollars, whichever is larger; and such compensation shall not be subject to any deduction or abatement, by reason, or on account, or in respect of any matter or thing whatsoever, save such as is specially provided for in section 12 of this Act. 55 V. c. 30, s. 7.

Distribution of compensation.

8. When in any action under this Act compensation is awarded in the case of the death of a workman for an injury sustained by him in the course of his employment, the amount recovered, after deducting the costs not recovered from the defendant may, if the Court or Judge before whom the action is tried so directs, be divided between the wife, or husband, parent and child of the deceased in such shares as the Court or Judge, with or without assessors, as the case may be, or if the action is tried by a jury, as the jury may determine. 55 V. c. 30, s. 8.

Limit of time for recovery of compensation.

9. Subject to the provisions of sections 13 and 14, an action for the recovery, under this Act, of compensation for an injury shall not be maintainable against the employer of the workman, unless notice that injury has been sustained is given within twelve weeks, and the action is commenced within six months from the occurrence of the accident causing the injury, or in case of death within twelve months from the time of death; provided always that in case of death the want of such notice shall be no bar to the maintenance of such action, if the Judge shall be of opinion that there was reasonable excuse for such want of notice. 55 V. c. 30, s. 9.

Contract by workman when to constitute a defence to action for compensation.

10. No contract or agreement made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Act of compensation for any injury,

1. Unless for such workman entering into or making such contract or agreement there was other consideration than that of his being taken into or continued in the employment of the defendant; nor

2. Unless such other consideration was in the opinion of the Court or Judge before whom such action is tried, ample and adequate ; nor
3. Unless, in the opinion of the Court or Judge, such contract or agreement, in view of such other consideration was not on the part of the workman, improvident, but was just and reasonable ;

and the burden of proof in respect of such other consideration, and of the same being ample and adequate, as aforesaid, and that the contract was just and reasonable and was not improvident as aforesaid, shall, in all cases, rest upon the defendant ; Provided always that notwithstanding anything in this section contained, no contract or agreement whatsoever made or entered into by a workman shall be a bar or constitute any defence to an action for the recovery under this Act of compensation for any injury happening or caused by reason of any of the matters mentioned in section 5 of this Act. 55 V. c. 30, s. 10.

11. Notwithstanding anything contained in this Act, an action under section 3, 4 or 5 shall lie against the legal personal representatives of a deceased employer. 55 V. c. 30, s. 11.

Liability of personal representatives.

12. There shall be deducted from any compensation awarded to any workman or representatives of a workman, or persons claiming by, under, or through a workman in respect of any cause of action arising under this Act, any penalty or damages, or part of a penalty or damages which may in pursuance of any other Act, either of the Parliament of Canada, or of the Legislature of Ontario, have been paid to such workman, representatives or persons in respect of the same cause of action ; and where an action has been brought under this Act by any workman, or the representatives of any workman, or any persons claiming by, under, or through such workman, for compensation in respect of any cause of action arising under this Act, and payment has not previously been made of any penalty or damages, or part of a penalty or damages under any such Act, either of the said Parliament, or of the said Legislature, in respect of the same cause of action, such workman, representatives or persons shall not, so far as the said Legislature has power so to enact, be entitled thereafter to receive in respect of the same cause of action, any such penalty or damages, or part of a penalty or damages, under any such last-mentioned Act. 55 V. c. 30, s. 12.

Money payable under penalty to be deducted from compensation.

13.—(1) Notice in respect of an injury under this Act shall give the name and address of the person injured, and shall state in ordinary language the cause of the injury and the date at which it was sustained, and shall be served on the employer, or if there is more than one employer, upon one of such employers.

Form and service of notice of injury.

(2) The notice may be served by delivering the same to or at the residence or place of business of the person on whom it is to be served.

(3) The notice may also be served by post, by a registered letter addressed to the person on whom it is to be served at his last known place of residence or place of business, and if served by post shall be deemed to have been served at the time when a letter containing the same would be delivered in the ordinary course of post, and in proving the service of such notice it shall be sufficient to prove that the notice was properly addressed and registered.

(4) Where the employer is a body of persons corporate or unincorporate the notice shall be served by delivering the same at or by sending it by post in a registered letter addressed to the office, or if there be more than one office, any one of the offices of such body.

(5) The want or insufficiency of the notice required by this section, or by section 9 of this Act, shall not be a bar to the maintenance of an action for the recovery of compensation for the injury if the Court or Judge before whom such action is tried, or, in case of appeal, if the Court hearing the appeal is of opinion that there was reasonable excuse for such want or insufficiency, and that the defendant has not been thereby prejudiced in his defence.

(6) A notice under this section shall be deemed sufficient if in the form or to the effect following:—

To A. B., of (*here insert employer's address*)

or

To the

Company, (*or as the case may be.*)

Take notice, that on the day of 18 , C. D., of (*insert address of injured person*) a workman in your employment sustained personal injury, (*add, of which he died, if such be the case,*) and that such injury was caused by (*state shortly the cause of injury, e.g., the fall of a beam.*)

(Date.)

Yours, etc.,

X. Y.

55 V. c. 30, s. 13.

Defence of
want of
notice or not
the plaintiff's
employer.

14. If the defendant in any action against an employer for compensation for an injury sustained by a workman in the course of his employment intends to rely for a defence on the want of notice or the insufficiency of notice, or on the ground that he was not the employer of the workman injured, he shall, not less than seven days before the hearing of the action, or such other time as may be fixed by the rules regulating the practice of the Court in which the action is brought, give notice to the plaintiff of his intention to rely on that defence, and the Court may, in its discretion, and upon such terms and conditions as may be just in that behalf, order and allow an

adjournment of the case for the purpose of enabling such notice to be given; and, subject to any such terms and conditions, any notice given pursuant to and in compliance with the order in that behalf, shall, as to any such action and for all purposes thereof, be held to be a notice given pursuant to and in conformity with sections 9 and 13 of this Act. 55 V. c. 30, s. 14.

15. In an action brought under this Act the particulars of demand or statement of claim shall state in ordinary language the cause of the injury, and the date at which it was sustained, and the amount of compensation claimed; and where the action is brought by more than one plaintiff, the amount of compensation claimed by each plaintiff, and where the injury of which the plaintiff complains shall have arisen by reason of the negligence, act, or omission of any person in the service of the defendant, the particulars shall give the name and description of such person. 55 V. c. 30, s. 15.

Particulars of demand.

16.—(1) Upon the trial of an action for recovery of compensation under this Act before a Judge without a jury, one or more assessors may be appointed by the Court or Judge for the purpose of ascertaining the amount of compensation; and the remuneration (if any) to be paid to such assessors shall be fixed and determined by the Judge at the trial.

Application for appointment of assessors.

(2) Any person who shall, as hereinafter provided, be appointed to act as an assessor in such action, shall be qualified so to act.

(3) In such action, a party who desires assessors to be appointed shall, ten clear days at least before the day for holding the Court at which the action is to be tried, file an application stating the number of assessors he proposes to be appointed, and the names, addresses and occupations of the persons who may have expressed their willingness in writing to act as assessors. If the applicant has obtained the consent of the other party to the persons named being appointed, he shall file such consent with his application.

(4) Where the application for the appointment of assessors has been made by one party to an action only, he shall, eight clear days at least before the day for holding the Court at which the action is to be tried, serve a copy of the application, so filed, upon the other party, who may then either file an application for assessors, or file objections to one or more of the persons proposed.

(5) An application for the appointment of assessors may be in the form following, or to the like effect, namely:—

In the (*describing the Court*)

“The Workmen's Compensation for Injuries Act.”

BETWEEN,

and

Plaintiff,

Defendant.

The plaintiff (*or* defendant) applies to have an assessor (*or* assessors) appointed to assist the Court in ascertaining the amount of compensation to be awarded to the plaintiff, should the judgment be in his favour, and he submits the names of the following persons, who have expressed their willingness in writing to act as assessors should they be appointed.

(*Here set out the names, addresses and occupations of the persons above referred to.*)

(*If the other party consents to the appointment add the following*):—

The defendant (*or* plaintiff) consents to the appointment of any of the persons above named to act as assessors in this action, as appears by his consent thereto filed herewith.

Dated this

day of

A. B.

The above named plaintiff, (*or as the case may be.*)

(6) Where separate applications are filed by the parties, no objection to the persons proposed shall be made by either party, but the Court or Judge may appoint from the persons named in each application one or more assessor or assessors, provided that the same number of assessors be appointed from the names given in such applications respectively. 55 V. c. 30, s. 16 (1-6)

Assessors in
Division
Court.

17. In case any such action is brought in a Division Court the applications for the appointment of assessors, together with any objections made to the persons proposed, shall be forwarded by the clerk of the Court to the Judge. 55 V. c. 30, s. 16 (7).

Appointment
by Court or
Judge.

18. Where application for the appointment of assessors is granted, the Court or Judge shall appoint such of the persons proposed for assessors as by the Court or Judge may be deemed fit, subject to the provisions contained in this Act. 55 V. c. 30, s. 16 (8).

Additional
assessors.

19. In such action where an application for the appointment of assessors has been filed, the Court or Judge may, at any time prior to the trial thereof, nominate one or more additional persons to act as assessors in the action. Where no application for assessors has been made, the Court or Judge may appoint one or more persons to act as assessor or assessors in the action before or on the trial of the action. 55 V. c. 30, s. 16 (9).

Where as-
sessors do not
attend at
trial.

20. If at the time and place appointed for the trial all or any of the assessors appointed do not attend, the Court or Judge may either proceed to try the action with the assistance of such

of the assessors, if any, as do attend, or may adjourn the trial generally, or upon any terms which the Court or Judge may think fit, or may appoint any person who may be available and who is willing to act, and who is not objected to, or who, if objected to is objected to on some insufficient ground, or the Court or Judge may try the action without assessors. 55 V. c. 30, s. 16 (10).

21. Every person requiring the Court or Judge to be assisted by assessors shall at the time of filing his application deposit therewith the sum of \$4 for every assessor proposed, and such payments shall be considered as costs in the action, unless otherwise ordered by the Court or Judge: Deposit of assessor's fees. Provided, that where a person proposed as an assessor shall Proviso. have in writing agreed and consented that he will not require his remuneration to be so deposited, no deposit in respect of such person shall be required. 55 V. c. 30, s. 16 (11).

22. Where an action is tried by the Court or Judge with the assistance of assessors in addition to or independently of any assessors proposed by the parties, the remuneration of such assessors shall be borne by the parties, or either of them, as the Judge or Court shall direct. 55 V. c. 30, s. 16 (12). By whom cost of additional assessors borne.

23. If after an assessor has been appointed the action shall not be tried, the Court or Judge shall have power to make an allowance to him in respect of any expense or trouble which he may have incurred by reason of his appointment, and direct the payment to be made out of any sum deposited for his remuneration. 55 V. c. 30, s. 16 (13). Where trial does not take place.

24. The assessors shall sit with and assist the Court or Judge when required with their opinion and special knowledge for the purpose of ascertaining the amount of compensation, if any, which the plaintiff shall be entitled to recover. 55 V. c. 30, s. 16 (14). Duty of assessors.

25.—(1) Where several actions shall be brought under this Act against a defendant in the same Court in respect of the same negligence, act or omission, the defendant shall be at liberty to apply to the Judge that the said actions shall be consolidated. Consolidation of actions.

(2) Applications for consolidation of actions shall be made upon notice to the plaintiffs affected by such consolidation. 55 V. c. 30, s. 17 (1, 2).

26.—(1) In case several actions shall be brought under this Act against a defendant in the same Court in respect of the same negligence, act or omission, the defendant may, on filing an undertaking to be bound so far as his liability for such Staying several actions to abide result of one.

negligence, act or omission is concerned by the decision in such one of the said actions as may be selected by the Court or Judge, apply to the Court or Judge for an order to stay the proceedings in the actions other than in the one so selected, until judgment is given in such selected action.

(2) Applications for stay of proceedings shall be made upon notice to the plaintiffs affected by stay of proceedings or *ex parte*. 55 V. c. 30, s. 17 (3, 4).

Terms of consolidation or stay.

27. Upon the hearing of an application for consolidation of actions or for stay of proceedings, the Court or Judge shall have power to impose such terms and conditions and make such order in the matter as may be just. 55 V. c. 30, s. 17 (5).

Varying order.

28. If an order shall be made by a Court or Judge upon an *ex parte* application to stay proceedings, it shall be competent to the plaintiffs affected by the order to apply to the Court or Judge (as the case may be) upon notice or *ex parte*, to vary or discharge the order so made, and upon such last mentioned application such order shall be made as the Court or Judge shall think fit, and the Court or Judge shall have power to dispose of the costs occasioned by such order as may be deemed right. 55 V. c. 30, s. 17 (6).

Removal of stay.

29. In case a verdict in the selected action shall be given against the defendant, the plaintiffs in the actions stayed shall be at liberty to proceed for the purpose of ascertaining and recovering their damages and costs. 55 V. c. 30, s. 17 (7).

Damages to be separately assessed.

30. Where two or more persons are joined as plaintiffs under section 25, and the negligence, act or omission which is the cause of action shall be proved, the judgment shall be for all the plaintiffs, but the amount of compensation, if any, that each plaintiff is entitled to shall be separately found and set forth in the judgment, and the amount of costs awarded in the action shall be ordered to be paid to such person, and in such manner as the Court or Judge thinks fit; should the defendant fail to pay the several amounts of compensation and the costs awarded in the action, execution may issue as in an ordinary action, and should the proceeds of the execution be insufficient, after deducting all costs, to pay the whole of the amounts awarded, a dividend shall be paid to each plaintiff, calculated upon the proportion of the amount awarded to the respective plaintiffs to the total amount realized after the deduction of all the costs of the action as aforesaid. 55 V. c. 30, s. 17 (9).

Execution.

Admissions by notice.

31. A defendant may by notice to the opposite party to be given or served at least six days before the day appointed for the trial of the action, admit the truth of any statement of his liability for any alleged negligence, act or omission as set

forth or contained in the plaintiff's statement or particulars of claim in the action, and after such notice given the plaintiff shall not be allowed any expense thereafter incurred for the purpose of proving the matters so admitted. 55 V. c. 30, s. 17 (8).

32. Where the time for doing any act, taking any proceeding, or giving any notice under or required by this Act expires on a holiday such act, or proceeding, or notice shall, so far as regards the time of doing, taking or giving the same, be held to be duly and sufficiently done, taken or given, if done, taken or given, on the day next following which is not a holiday. 55 V. c. 30, s. 18; 60 V. c. 3, s. 3.

Where time expires on a holiday.

33. In an action brought in any Court to recover compensation under this Act, the forms and methods, and the rules and orders in force in the Court shall, subject to and save as otherwise provided by the terms and provisions of this Act, apply to and regulate all matters of pleading, practice and procedure in such action, and notwithstanding anything in this Act contained, the forms and method, and the pleadings, practice and procedure in any such action shall conform to and be regulated by any rules or orders in that behalf hereafter lawfully and duly made or prescribed with respect to actions brought in any such Court. 55 V. c. 30, s. 19.

Forms and rules.

CHAPTER 161.

An Act respecting Apprentices and Minors.

INTERPRETATION, s. 1.

MINORS :—

Appointment and authority of guardians, ss. 2, 3.

Abandonment by parents, etc., s. 4.

May bind themselves to service in certain cases, s. 5.

Apprenticing, ss. 6-8.

Wages, s. 9.

Transference of apprentice, ss. 10, 11.

Duties of master, s. 12.

of apprentice, s. 13.

When indenture may be altered or annulled on application

on behalf of apprentice, ss. 14-17.

Deserting employment, s. 18.

Proceedings on complaints against apprentice, ss. 19, 20.

Harbouring absconding apprentices, s. 21.

When master may avoid indenture, s. 22.

Jurisdiction of General Sessions, s. 23.

Costs—Fines, ss. 24, 25.

APPEALS, ss. 26-28.

POWERS OF CHARITABLE SOCIETIES, s. 29.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

INTERPRETATION.

Meaning of the word "master."

1. The word "Master," where it occurs in this Act, shall include any person or number of persons, male or female, carrying on business singly or in co-partnership, and any body corporate. R. S. O. 1887, c. 142, s. 1.

GUARDIANS TO MINORS.

of parents, charitable societies, etc., to appoint guardians to minors.

2. Any parent, guardian, or any other person having the care or charge of a minor, or any charitable society authorized by the Lieutenant-Governor to exercise the powers conferred by this Act, and having the care or charge of a minor, may, with the minor's consent, if the minor is a male not under the age of fourteen years, or is a female not under the age of twelve years, and without such consent if he or she is under such age, constitute, by indenture, to be the guardian of the child, any respectable trustworthy person who is willing to assume, and by indenture or other instrument in writing does assume, the duty of a parent towards the child; but the parent shall remain liable for the performance of any duty imposed by law in case the guardian fails in the performance thereof. R. S. O. 1887, c. 142, s. 2.

3. The guardian shall thereupon possess the same authority over the child as he or she would have were the ward his or her own child, and shall be bound to perform the duties of a parent toward such ward. R. S. O. 1887, c. 142, s. 3.

Authority of guardians.

RIGHTS AND LIABILITIES OF MINORS.

4. No minor who has been abandoned by his or her parent or guardian, or who is dependent upon charity for support shall be removed from any public or private charitable institution, or from the custody or control of any private person who is charitably taking care of the minor, by the father or mother or guardian of the minor against the will of the head of such public or private charitable institution, or of such private person, without an order for such removal from a Judge of the High Court or from the Judge of the County Court of the county, or Mayor or Police Magistrate of the city or town where the minor is; and the Judge or other person hereby empowered to make an order for removal, may refuse to grant an order for the removal of the minor, unless he is satisfied that the removal will tend to the advantage and benefit of the minor. R. S. O. 1887, c. 142, s. 4.

Parents and guardians of certain minors not to control their custody except on order.

5. Where a minor over the age of sixteen years, who has no parent or legal guardian, or who does not reside with his parent or guardian, enters into an engagement written or verbal to perform any service or work, he shall be liable upon the same, and shall have the benefit thereof, as if he had been of legal age. R. S. O. 1887, c. 142, s. 5.

Minors may bind themselves to labour in certain cases.

APPRENTICING MINORS.

6. A parent, guardian, or other person having the care or charge of a minor, or any charitable society being authorized by the Lieutenant-Governor in Council to exercise the powers conferred by this Act, and having the care or charge of a minor, the minor being a male and not under the age of fourteen years, may, with the consent of the minor, put and bind him as an apprentice by indenture to any respectable and trustworthy master-mechanic, farmer, or other person carrying on a trade or calling, for a term not to extend beyond the minority of the apprentice; or in case of a female not under the age of twelve years, may, with her consent, bind the minor to any respectable and trustworthy person carrying on any trade or calling, or to domestic service with any respectable and trustworthy person for any term not to extend beyond the age of eighteen years. R. S. O. 1887, c. 142, s. 6.

Power of parents, charitable societies, etc., to bind minors.

7. Where the father of an infant child abandons and leaves the child with the mother, the mother, with the approbation of two Justices of the Peace, may bind the child as an apprentice to any person mentioned in the last section, until the child

Power given to the mother when the father abandons his infant children.

attains the age of twenty-one years in the case of a male, and eighteen in the case of a female; and an indenture to that effect under the hand and seal of the mother and countersigned by such Justices shall be valid; but no child, having attained the age of fourteen years, shall be so apprenticed, unless he or she consents. R. S. O. 1887, c. 142, s. 7.

Certain minors may be apprenticed by Mayor, Judge etc.

8. In a city or town, the mayor, Judge of the County Court or Police Magistrate, and in a county, the Judge of the County Court of the county may put and bind for the like period to any person mentioned in the several sections of this Act, with the consent of such person and of the minor, (or if such minor is a male under the age of fourteen years or a female under the age of twelve years then without the consent of such minor), any minor who is an orphan or has been deserted by his or her parents or guardian, or whose parents or guardian have been for the time committed to a common gaol or house of correction, or any minor who is dependent upon public charity for support; and such apprentice and the master of such apprentice shall be held in the same manner as if the apprentice had been bound by his or her parent. R. S. O. 1887 c. 142, s. 8.

Wages of minors.

9. All wages reserved by any indenture or otherwise to be paid for the service of any minor, shall, if not payable to the parent, be either payable to the minor or to some person for the benefit of the minor. R. S. O. 1887, c. 142, s. 9.

If the master dies, apprentice to be transferred to his successor in the business.

10. If the master of the apprentice dies, the apprentice if a male, shall by act of law, be transferred to the person (if any) who continues the establishment of the deceased; and such person shall hold the apprentice upon the same terms as the deceased, if alive would have done. R. S. O. 1887, c. 142, s. 10.

Apprentices may be transferred.

11. A master may transfer his apprentice, with his consent to any person who is competent to receive or take an apprentice and who carries on the same kind of business. R. S. O. 1887, c. 142, s. 11.

Duties of masters towards apprentices.

12. Every master shall provide his apprentice, during the term of his apprenticeship with suitable board, lodging and clothing, or such equivalent therefor as is mentioned in the indenture, and shall also properly teach and instruct him, or cause him to be taught and instructed in his trade or calling. R. S. O. 1887, c. 142, s. 12.

Duty of apprentices.

13. Every apprentice shall during the term of his apprenticeship faithfully serve his master, shall obey all his lawful and reasonable commands, and shall not absent himself from his service, day or night, without his consent. R. S. O. 1887, c. 142, s. 13.

COMPLAINTS.

14. A Judge of the County Court or a Police Magistrate upon complaint made by a minor bound as aforesaid, or by any person on his or her behalf, or by the person to whom an apprentice is bound, may alter the mode in which payment of wages is to be made, by directing payment to the apprentice, or to some other person, in lieu of the manner set out in the indenture; or may upon proof of gross misconduct or neglect of duty annul the indenture of apprenticeship or of service, and may compel the person in whose possession, power, custody or control the indenture is, to produce and deliver the same in Court, in order to have the indenture cancelled, or to have the order varying the said indenture endorsed thereon, as the case may require. R. S. O. 1887, c. 142, s. 14.

Alteration in mode of payment of wages upon application for the purpose.

Indenture may be annulled for misconduct.

15. A County Court Judge or Police Magistrate may after allowing a reasonable time for production and delivery, issue a warrant for the imprisonment of the person in default, for any term not exceeding six months, unless the indenture or instrument is previously produced and delivered for the purpose aforesaid. R. S. O. 1887, c. 142, s. 15.

Committal for refusing to produce indenture.

16. A Judge of the County Court or Police Magistrate upon complaint of any minor over whom a person has been appointed guardian under section 2 of this Act, or of any person on behalf of the minor, and upon proof of gross misconduct or neglect of duty on the part of the guardian may emancipate the minor from the authority of the said guardian. R. S. O. 1887, c. 142, s. 16.

Emancipation from authority of guardian

17. A Judge of the County Court in any case, and a Police Magistrate in case the apprenticing of a child or the appointment of a guardian under this Act has not been by the parent of the child, may on the application of either the parent or child, cancel the indenture of apprenticeship, if satisfied that the same was injudiciously or improperly entered into; or cancel the appointment of a guardian, and restore the child to the parent, if satisfied that the parent is a fit and proper person to take charge of the child; and in case such cancellation of the guardianship is on the application of the parent, the authority of the parent shall revive as if no guardian had been appointed. R. S. O. 1887, c. 142, s. 17.

Cancellation of indenture of apprenticeship or appointment of guardian.

18. In case an apprentice absents himself from his master's service or employment before the time of his apprenticeship expires, he may at any time thereafter, if found in Ontario, be compelled to serve his master for so long a time as he so absented

Liability of apprentice deserting his master's service.

himself, unless he makes satisfaction to his master for the loss sustained by such absence. R. S. O. 1887, c. 142, s. 18.

How complaints may be heard.

19.—(1) In case an apprentice refuses to serve as above required or to make such satisfaction to his master, or to obey the lawful commands of his master, or in any other way refuses or neglects to perform his duty to his master, and if the master, or his overseer or agent, complains on oath to a Justice of the Peace or Police Magistrate, either in the county, city or town where the master resides, or in any county, city or town where the absconding apprentice is found, such Justice or Police Magistrate may cause the apprentice to be summoned to appear or to be apprehended and brought before him, or before some other Justice of the Peace; and such Justice, upon hearing the complaint, shall determine what satisfaction shall be made by the apprentice to the master.

Committal of apprentice in certain cases, etc.

(2) In case the apprentice does not give or make such satisfaction immediately, or in case the satisfaction is of such a nature as not to admit of immediate performance, if he does not give sufficient security to make such satisfaction, then the Justice or Police Magistrate may commit the apprentice to the common gaol or house of correction of the county, city or town, for any time not exceeding three months; and such imprisonment shall not release the apprentice from the obligation to make up the lost time to the master. R. S. O. 1887, c. 142, s. 19.

Limitation of proceedings against absconding apprentice.

20. Where the apprentice has not left Ontario, or having left Ontario, has returned thereto, the master shall not proceed against the apprentice under this Act, except within three years next after the expiration of the term for which the apprentice contracted to serve, or next after his return, as the case may be. R. S. O. 1887, c. 142, s. 20.

Penalty for employing or harbouring absconding apprentices.

21. Any person who knowingly harbours or employs an absconding apprentice, shall pay to the master of the apprentice the full value of the apprentice's labour; and such value shall be what the master would have received from the labour and service of the apprentice if he had continued faithfully in his master's service; and the master may recover the same in any Court having jurisdiction where the apprentice has been employed, or where the master resides. R. S. O. 1887, c. 142, s. 21.

Indenture may be avoided if apprentice becomes insane, a convict, or absconds.

22. If an apprentice becomes insane, or is convicted of a felony, or is sentenced to the Central Prison, Provincial Reformatory, or to the Penitentiary, or absconds, his master may within one month thence next ensuing, but not afterwards, avoid the indenture of apprenticeship, from the time he gives notice in writing of his intention to do so to the other parties to the indenture, either by serving them with the notice or a copy thereof, or by

inserting the same in the *Ontario Gazette*, or in a newspaper of the county or city where the master's establishment is situated. R. S. O. 1887, c. 142, s. 22.

23. The Court of General Sessions of the Peace shall have Jurisdiction of General Sessions, a concurrent primary jurisdiction over offences committed against this Act, and shall also have authority to make any order which under this Act may be made by a Judge of the County Court. R. S. O. 1887, c. 142, s. 23.

24. The Court of General Sessions, Judge, Police Magistrate Costs, or Justice, may, on any complaint or other proceeding under this Act make such order as to payment of costs as appears just. R. S. O. 1887, c. 142, s. 24.

25. All fines imposed and collected under this Act shall be paid to the treasurer of the local municipality, where the Application of fines, offence was committed. R. S. O. 1887, c. 142, s. 25.

APPEALS.

26. Either party may, except as to matters provided for in the next section, appeal to the Court of General Sessions from the decision of a Justice or Police Magistrate, under this Act, in manner provided for in cases of summary conviction; and the said Court, when called upon to adjudicate upon an appeal in any matter under this Act, may make the like order as it might have made, had the complaint been brought before it in the first instance. R. S. O. 1887, c. 142, s. 26. Appeal to Court of General Sessions.

27.—(1) There shall be an appeal to a Judge of the High Court in Chambers from any order made by a Court of General Sessions, County Court Judge, or a Police Magistrate, cancelling or varying an indenture of apprenticeship, or cancelling the appointment of a guardian; such appeal shall be by summary petition, a copy whereof shall be served upon the opposite party within ten days from the day upon which judgment is rendered, unless a Judge of the High Court, or the Master in Chambers allows further time; and the petition shall be returnable upon the tenth day after the day of service thereof. Appeal to a Judge in Chambers. Proceedings on appeal.

(2) The Judge, or Master in Chambers aforesaid, in granting further time may impose such terms as to further evidence, costs and otherwise as he sees fit; but the adjudication on the appeal shall be by the Judge only. R. S. O. 1887, c. 142, s. 27.

28. The Judge, upon consideration of the evidence taken upon the hearing, (a certified copy whereof shall be produced Order of Judge.

Further evidence.

before him,) and such further evidence aforesaid (if any) may make such order in the premises, and as to costs and otherwise, as he may consider fitting; or before adjudication upon the appeal, he may in his discretion permit further evidence, either written or oral, to be adduced upon such terms as he considers just. R. S. O. 1887, c. 142, s. 28.

POWERS OF CHARITABLE SOCIETIES.

Charitable societies may be authorized to exercise powers under this Act.

29. The Lieutenant-Governor in Council may authorize any charitable society, incorporated or unincorporated, to exercise for a limited time or otherwise, the powers conferred by this Act, and may revoke or suspend any Order in Council made for that purpose; and after such revocation such Society shall not possess the authority to exercise such powers unless and until again authorized by Order in Council. R. S. O. 1887, c. 142, s. 29.

SECTION XII.

LAWS AFFECTING SPECIAL CLASSES OF PERSONS.

1. HUSBAND AND WIFE.

CHAPTER 162.

An Act respecting the Solemnization of Marriage.

SHORT TITLE, s. 1.	CONSENT TO BE PRODUCED, s. 18.
MINISTERS OF ALL DENOMINATIONS MAY SOLEMNIZE MARRIAGES, s. 2.	PROHIBITED DEGREES, s. 19.
MARRIAGE BY QUAKERS, s. 3.	LICENSE, ETC., NOT TO ISSUE IF ISSUER KNOWS OR SUSPECTS THAT AFFIDAVIT IS FALSE, ETC., s. 20.
MARRIAGES TO BE EITHER BY LICENSE OR CERTIFICATE, OR BY BANNS, AND WITHIN CERTAIN HOURS, ss. 4, 5	FEES FOR LICENSES, s. 21.
PROTECTION OF MINISTERS, s. 6.	MARRIAGE NEED NOT BE IN A CHURCH, NOR INVALID BECAUSE NOT WITHIN PARTICULAR HOURS, s. 22.
ISSUE OF LICENCES OR CERTIFICATES, ss. 7-14	CERTIFICATE OF MARRIAGE TO BE GIVEN BY MINISTER IF REQUIRED, s. 23.
PERSONS WHOSE CONSENT REQUIRED TO THE MARRIAGE OF A MINOR, s. 15.	REGISTRY BOOK, ss. 24-26.
CERTAIN MARRIAGES PROHIBITED, s. 16.	COPIES OF ACT TO BE FURNISHED, s. 27.
AFFIDAVIT REQUIRED TO OBTAIN A LICENSE OR CERTIFICATE, s. 17.	CERTAIN MARRIAGES DECLARED VALID, ss. 28-30.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Marriage Act.*" 59 V. Short title. c. 39, s. 1.

2. The following persons, being men and resident in Canada, Who may solemnize the ceremony of marriage between any two persons not under a legal disqualification to contract such marriage in Ontario.

1. The ministers and clergymen of every church and religious denomination duly ordained or appointed according to the rites and ceremonies of the churches or denominations to which they respectively belong ;
2. Any elder, evangelist or missionary for the time being of any church or congregation of the religious people commonly called or known congregationally as "Congregations of God" or "of Christ," and individually as "Disciples of Christ," who from time to time is chosen by any such congregation for the solemnization of marriage ;
3. Any duly appointed commissioner or staff officer of the religious society called the Salvation Army, chosen or commissioned by the said society to solemnize marriages. 59 V. c. 39, s. 2.

Marriages solemnized by Quakers.

Rev. Stat. c. 44.

Proviso.

3. Every marriage duly solemnized according to the rites, usages and customs of the religious Society of Friends, commonly called Quakers, shall be valid ; and all the duties imposed by this Act, or by *The Act respecting the Registration of Births, Marriages and Deaths*, upon a minister or clergyman, shall, with regard to such marriage, be performed by the clerk or secretary of the society or of the meeting at which the marriage is solemnized ; Provided always that nothing herein contained shall be construed as requiring the marriage to be celebrated or solemnized by such clerk or secretary. 59 V. c. 39, s. 3.

Marriages not to be solemnized unless duly authorized.

4.--(1) No minister, clergyman or other person shall celebrate the ceremony of marriage between any two persons, unless duly authorized so to do by license under the hand and seal of the Lieutenant-Governor or his deputy, duly authorized in that behalf, or by a certificate under this Act, unless the intention of the two persons to intermarry has been published as is in the next subsection provided.

Or after proclamation of intention.

(2) Such intention shall be proclaimed once openly, and in an audible voice, either in the church, chapel or meeting-house in which one of the parties has been in the habit of attending worship, or in some church, chapel, meeting-house or place of public worship of the congregation or religious community with which the minister or clergyman who performs the ceremony is connected, in the local municipality, parish, circuit or pastoral charge, where one of the parties has, for the space of fifteen days immediately preceding, had his or her usual place of abode ; and where both parties do not live in the same local municipality, parish, circuit or pastoral charge, and the marriage is not authorized by license or certificate as aforesaid, a similar proclamation shall be made in the local municipality, parish, circuit or pastoral charge (being within Canada) where

the other of the contracting parties has for the space of fifteen days immediately preceding had his or her usual place of abode; and where the proclamation last mentioned is required such marriage shall not be celebrated until there is delivered to the person proposing to celebrate it a certificate (Schedule A) showing that such proclamation has been made.

(3) Every such proclamation shall be made on a Sunday, immediately before the service begins or immediately after it ends, or at some intermediate part of the service. Proclamation of intention.

(4) The said certificate of proclamation of intention shall be signed by the clergyman, minister, clerk, secretary or other person who actually proclaimed the same, and shall show the official position of the person who signs it. Certificate of proclamation of intention. 59 V. c. 39, s. 4.

5.—(1) No marriage shall be solemnized under the authority of any proclamation of intention to intermarry, unless such proclamation has been made at least one week previously, nor unless the marriage takes place within three months after the Sunday upon which the proclamation was made; nor shall a marriage be solemnized under the authority of any license or certificate unless within three months after the date thereof. Proclamation or license to lapse unless marriage takes place within three months.

(2) No clergyman, minister or other person shall solemnize a marriage between the hours of 10 p.m. and 6 a.m. unless he is satisfied from evidence adduced to him that the proposed marriage is legal and that exceptional circumstances exist which render its solemnization between the said hours advisable. Hours during which marriages not to take place.

(3) No clergyman, minister or other person shall solemnize a marriage without the presence of at least two adult witnesses, and two or more of such witnesses shall affix their names as witnesses to the record in the register prescribed by section 24. Witnesses required.

(4) No clergyman, minister or other person who is an issuer of marriage licenses shall solemnize the ceremony of marriage in any case in which he has issued the license or certificate authorizing such marriage. This subsection shall not apply to the districts of Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay, and Rainy River. Issuer of marriage licenses not to marry the parties.

(5) The certificate or license to marry or the certificate of publication of intention, when such certificate is required, shall be left with the clergyman, minister or other person who solemnizes the marriage. 59 V. c. 39, s. 5. License and certificates to be delivered to person solemnizing marriage.

6. No minister who solemnizes a marriage ceremony after banns have been published or a license or certificate has been issued under this Act in respect thereto, shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage, unless at the time when he performed the ceremony he was aware of the impediment. 59 V. c. 39, s. 6. Protection of clergymen solemnizing marriages in good faith.

Certificate in lieu of marriage license.

7. A certificate in the form given in Schedule B or Schedule C to this Act (according to the circumstances of the case) may, at the option of the applicant, be substituted for a marriage license; and such certificate shall have the same legal effect as a license. 59 V. c. 39, s. 7.

Licenses and certificates, how issued.

8. Such licenses or certificates shall be issued from the office of the Provincial Secretary, and shall be furnished to persons requiring the same by such persons as the Lieutenant-Governor in Council may name for that purpose. 59 V. c. 39, s. 8.

Validity of licenses and certificates.

9. Every license executed under the hand and seal of the Lieutenant-Governor, or his deputy duly authorized in that behalf, and every certificate signed by the Provincial Secretary, or Assistant Provincial Secretary, for the purpose of the solemnization of a marriage, shall be and remain valid, notwithstanding that the Lieutenant-Governor or his deputy, or the Provincial Secretary, or the Assistant Provincial Secretary has ceased to hold office before the time of the issue of the license or certificate. 59 V. c. 39, s. 9.

Unauthorized issue of licenses or certificates.

 59 V. c. 39, s. 10.

Penalty.

10. If any person issues any license or certificate for the solemnization of marriage without being authorized by the Lieutenant-Governor in Council in that behalf, unless under the authority in the next section contained, he shall forfeit to Her Majesty the sum of \$100 for every license or certificate so issued. 59 V. c. 39, s. 10.

Appointment of deputy-issuers of marriage licenses with approval of Mayor or Reeve.

11.—(1) Any issuer of marriage licenses or certificates may with the approval, in writing, of the Mayor or Reeve of the city, town, township, or incorporated village wherein he resides, from time to time, when prevented from acting by illness or unavoidable accident, or where his temporary absence is contemplated, appoint by writing under his hand, a deputy to act for him.

Powers of deputy-issuers.

(2) The said deputy shall, while so acting at the residence, or office, or place of business of the said issuer for whom the deputy acts, possess the powers and privileges (as to administering necessary oaths and otherwise) of the issuer appointing him.

Notice of appointment of deputy.

(3) The issuer shall, upon appointing a deputy, forthwith transmit to the Provincial Secretary a notice of the appointment, and of the cause thereof, and of the name and official position of the person by whom the appointment has been approved, and the Lieutenant-Governor may at any time annul the appointment.

Appointment of deputy where no Mayor or Reeve.

(4) In case it is necessary on account of illness, unavoidable accident, or contemplated temporary absence of an issuer of marriage licenses, to appoint a deputy, and there is no Mayor or Reeve to give the approval required by the provisions of sub-

section 1 of this section, such issuer of marriage licenses may, in the manner in other respects required by the said subsection, but without such consent, appoint such deputy, and the licenses or certificates issued by such deputy shall be deemed to authorize the solemnization of marriages at the same places as licenses or certificates issued by the principal for whom such deputy acts, and no irregularity in the appointment of a deputy issuer shall affect the validity of a license or certificate by him issued. 59 V. c. 39, s. 11.

12. Every deputy so appointed shall sign each license and certificate issued by him with the name of his principal as well as his own name in the following manner:—“*A. B.—Issuer of Marriage Licenses, per C. D., Deputy-Issuer,*” or to the like effect, but no irregularity in the issue of a license or certificate issued by an issuer or deputy issuer to any person or persons obtaining the same, or acting thereon in good faith, shall invalidate a marriage solemnized in pursuance thereof. 59 V. c. 39, s. 12.

How licenses to be signed by deputy.

Irregularity in issue not to affect.

13. Every issuer of licenses or of certificates aforesaid, or any other person having unissued licenses or certificates in his possession, power, custody, or control, shall, whenever required so to do, transmit to the Provincial Secretary every such license or certificate; and the property in all unissued licenses and certificates shall be and remain in Her Majesty. 59 V. c. 39, s. 13.

Unissued licenses to be returned to Provincial Secretary.

14. All expenses incident to providing licenses and certificates shall be paid by the issuer of the licenses and certificates. 59 V. c. 39, s. 14.

Expenses incident to procuring licenses.

15.—(1) Where, in case of an intended marriage, either of the parties thereto (not being a widower or widow) is under the age of eighteen years, the consent of the father of such party, if the father be living, or if the father be dead the consent of the mother, if living, or of a guardian, if any has been duly appointed, shall be required before the license is issued.

Consent required to marriage where one of the parties is under eighteen.

(2) When such consent is necessary under the preceding subsection, no license or certificate shall be issued without the production of the consent, and the issuer or deputy-issuer shall satisfy himself of the genuineness of such consent by satisfactory proof in addition to the affidavit required of one of the parties.

Consent to be produced before license issues.

(3) In the case of a party under the age of eighteen years (not being a widower or widow), if both the father and mother of such person are dead and there is no guardian of such party duly appointed, the issuer or deputy-issuer, on being satisfied as to the facts, may grant the license or certificate.

When parents are dead and there is no guardian.

(4) In case the father or mother, though living, is not a resident of this Province, and is not in this Province at the time

If parents not resident in the Province.

of the application for a license, and the party under the age of eighteen years is himself or herself a resident and has been such resident for the preceding twelve months, the issuer or deputy-issuer, on being satisfied by evidence of these facts, may grant the license or certificate. 59 V. c. 39, s. 15.

No license to be issued or marriage to be celebrated where either party under fourteen.

¶ 16.—(1) No license or certificate shall be issued to any party under the age of fourteen years, except where a marriage is shown to be necessary to prevent the illegitimacy of offspring and a certificate to this effect is given by a legally qualified medical practitioner known to the issuer, and except as aforesaid no person shall celebrate the marriage ceremony in any case in which either of the contracting parties is under the age of fourteen years, to the knowledge or information of such person. 60 V. c. 14, s. 68.

Penalty.

(2) If any minister, clergyman or other person shall celebrate the ceremony of marriage between two persons knowing or believing either of them to be an idiot or insane, the person so offending shall incur a penalty of \$500. 59 V. c. 39, s. 16 (2).

Affidavit to be made by one of the parties before license granted.

¶ 17.—(1) Before any license or certificate is granted by any issuer or deputy-issuer, one of the parties to the intended marriage shall personally make an affidavit which shall state :

- (a) In what county or district it is intended that the marriage shall be solemnized, and in what town, village or place in the county or district, and
- (b) That he or she believes there is no affinity, consanguinity, prior marriage, or other lawful cause or legal impediment to bar or hinder the solemnization of the marriage ;
- (c) That one of the parties has for the space of fifteen days immediately preceding the issue of the license or certificate, had his or her usual place of abode within the county or judicial district in which (for either municipal or judicial purposes) the local municipality in which the marriage is to be solemnized lies ;

Or (if the county or district in which it is intended that the marriage shall be solemnized is not that in which either of the parties has for the space of fifteen days immediately preceding the issue of the license or certificate, had his or her usual place of abode) that the reason of procuring the marriage to be solemnized in such place is not in order to evade due publicity or for any other improper purpose ;

- (d) The age of the deponent, and that the other contracting party is of the full age of eighteen years,

or the age of such other contracting party, if under the age of eighteen years, as the case may be ;

- (e) The condition in life of the parties, whether bachelor, widower, spinster or widow, according to the fact.
59 V. c. 39, s. 17 (1); 60 V. c. 14, s. 66.

(2) The affidavit shall further state the facts necessary to enable the issuer or deputy-issuer to judge whether or not the required consent has been duly given in the case of any party under the age of eighteen years, or whether or not such consent is necessary. 59 V. c. 39, s. 17 (2).

Facts showing whether consent is necessary.

(3) The affidavit may be in the form set forth in Schedule D to this Act, and shall be made before the issuer of licenses or his deputy. 60 V. c. 14, s. 67.

Form of affidavit.

18. Where a party (not being a widower or widow) is under the age of eighteen years, the written consent of the person whose consent to the marriage is required, shall be produced and annexed to the affidavit made under the preceding section and shall be verified by affidavit. 59 V. c. 39, s. 18.

Written consent to be produced and annexed to affidavit.

19.—(1) Upon the back or at the foot of the printed forms of affidavits to be made by the parties, shall be printed a memorandum showing the degree of affinity and consanguinity between the parties, which bar or hinder the solemnization of marriage between them; and no affidavit shall be acted upon by the issuer which does not have the said memorandum printed thereon; and upon the back or at the foot of the certificates or licenses issued, shall be printed such extracts from the Statutes as are necessary to show what persons are authorized to solemnize marriages in Ontario, or an epitome of the provisions of such Statutes.

Prohibited degrees to be set forth in form of affidavit.

(2) The issuer or deputy-issuer before administering the oath to the applicant, shall see that the applicant is aware what degrees of affinity or consanguinity are a bar to the solemnization of marriage. 59 V. c. 39, s. 19.

Duty of issuer of licenses.

20.—(1) In case the person having authority to issue the license or certificate has personal knowledge that the facts are not as section 15 of this Act requires, he shall not issue the license or certificate; and if he has any reason to believe or suspect that the facts are not as aforesaid, he shall, before issuing the license or certificate, require further evidence to his satisfaction in addition to the said affidavit.

When issuer has personal knowledge that proper consent not obtained.

(2) The issuer or deputy-issuer shall keep on record the affidavits or depositions satisfying him of the facts of which he is to be satisfied before issuing a license.

Evidence on which license issues to be kept.

(3) No license or certificate shall be issued between the hours of 11 p.m. and 6 a.m. by any issuer or deputy-issuer un-

Hours during which licenses may not be issued.

less he is satisfied from evidence adduced to him that the proposed marriage is legal and that exceptional circumstances exist which render the issue of the license or certificate advisable.

Particulars to be sent to Registrar-General.

(4) Every issuer or deputy-issuer of marriage licenses shall, immediately upon issuing a marriage license, fill up on a form to be supplied to him by the Registrar-General, the particulars contained in Schedule E appended to this Act, or such of them as he is then able to give, and the issuer shall forward the same forthwith to the Registrar-General; and every such issuer of marriage licenses shall, on making application to the Provincial Secretary for a new supply of licenses, certify that a complete return of every license issued by him has been forwarded to the Registrar-General. 59 V. c. 39, s. 20.

Fees for licenses or certificates.

21. No fee shall be payable for any license or certificate except the sum of \$2, which the issuer of the license or certificate shall be entitled to retain for his own use; but the Lieutenant-Governor in Council may from time to time reduce the sum so payable. 59 V. c. 39, s. 21.

Objections on grounds of place or hour of marriage.

22. It shall not be a valid objection to the legality of a marriage that the same was not solemnized in a consecrated church or chapel, or within any particular hours. 59 V. c. 39, s. 22.

Certificate to be given by person solemnizing marriage when required.

23. Every clergyman, minister or other person who solemnizes a marriage, and the clerk or secretary of a society of Quakers, or of the meeting at which the marriage is solemnized, shall, at the time of the marriage, if required by either of the parties thereto, give a certificate of the marriage under his hand, specifying the names of the persons married, the time of the marriage, and the names of two or more persons who witnessed it, and specifying also whether the marriage was solemnized pursuant to license or certificate under this Act, or after publication of banns; and the clergyman, minister, clerk or secretary aforesaid, may demand twenty-five cents for the certificate given by him from the person requiring it. 59 V. c. 39, s. 23.

Marriages to be registered by person solemnizing.

24. Every clergyman, minister, or other person authorized to solemnize marriages shall, immediately after he has solemnized a marriage, enter in a Marriage Registry Book, to be kept by him for the purpose (unless where a similar register is kept in the church at which he officiates, in which case the entries shall be made in that book), the particulars required in Schedule E to this Act, and shall authenticate the same by his signature. 59 V. c. 39, s. 24.

Clergyman to apply for marriage register to clerk of municipality.

25.—(1) Every clergyman, minister or other person authorized to solemnize marriages, where a marriage register is not already possessed by any church or congregation over which

he is placed or has charge, shall make application for a register to the clerk of the city, town, incorporated village or township municipality within which the said church or congregation is situated; the clerk shall thereupon supply such register at the cost of the municipality, and the clergyman, minister or other person in whose keeping the register is, shall, on or before the 8th days of July and January in each and every year, make and deliver to the said clerk a complete copy of the entries relating to every marriage recorded therein during the half year ending on the last days of June and December next preceding. 60 V. c. 14, s. 69 (1) part.

(2) One additional register may be supplied to any clergyman, minister or other person authorized to solemnize marriages, and a register shall also, on application, be supplied to any clergyman or minister in the municipality who is not in charge of a church or congregation, but in that case he must make a similar return at the periods aforesaid of all marriages solemnized by him.

(3) Every clergyman or minister in charge of a church or congregation in any unorganized township shall, upon a written application to be made by him to the Registrar General, receive a marriage register to be supplied by the Registrar General out of any moneys set apart by the Legislature for that purpose. 60 V. c. 14, s. 69 (2, 3). In unorganized townships.

26 The registry book, by whomsoever furnished, shall be the property of the denomination to which the clergyman, minister or other person to whom it is delivered, belongs at the time of the delivery thereof to him, and in case he is in charge of a particular congregation of such denomination, it shall belong to the trustees or other body in which the property of the church or meeting house used by such congregation for its ordinary services is vested. 59 V. c. 39, s. 26; 60 V. c. 3, s. 3; c. 14, s. 69 (1) part. Property in registers.

27 Printed copies of this Act shall be furnished in pamphlet form by the Clerks of the Peace, by mail if desired, post paid, to any person applying therefor upon payment of ten cents for each copy, and the said Clerks of the Peace shall obtain from the Queen's Printer so many copies as they may require at the rate of fifty cents per dozen. 59 V. c. 39, s. 27. Printed copies of this Act to be furnished.

28 Any marriages which, before the 7th day of April, 1896 had been solemnized in this Province by clergymen or ministers duly ordained or appointed as such according to the rites and ceremonies of the churches to which they belong, or by Commissioners or staff officers of the Salvation Army, between persons not under any legal disqualification for entering into the contract of matrimony are hereby declared to have been and to be lawful and valid marriages, so far as respects the civil rights in this Province of the parties or their issue, Marriages heretofore solemnized by persons not resident in Ontario validly dated.

and so far as respects all matters within the jurisdiction of the Ontario Legislature, notwithstanding that the person who solemnized any such marriage was not at the time a resident of this Province;

Proviso. Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not, before the said date, been questioned in any suit or action; and

Proviso. Provided further that nothing in this section shall make valid any such marriage in case either of the parties thereto has since contracted matrimony according to law; and in such a case the validity of the marriage by a non-resident shall be determined as if this Act had not been passed. 59 V. c. 39, s. 28.

Certain marriages solemnized in Society of Friends before 4th May, 1891. **29.** Any marriages which before the 4th day of May, 1891, had been solemnized in this Province according to the rites, usages and customs of the religious society called the Society of Friends, commonly called Quakers, between persons not under any legal disqualification for entering into the contract of matrimony, are hereby declared to have been and to be lawful and valid marriages so far as respects the civil rights in this Province, of the parties, or their issue, and so far as respects all matters within the jurisdiction of the Ontario Legislature.

Proviso. Provided that the parties thereafter lived together and cohabited as man and wife, and that the validity of the marriage had not been questioned in any suit or action before the tenth day of February, 1891, and

Proviso. Provided further that nothing in this section shall make valid any such marriage in case either of the parties thereto had since such marriage and prior to the 4th day of May, 1891, contracted matrimony according to law; and in such case the validity of the marriage shall be determined as if this Act had not been passed. 59 V. c. 39, s. 30.

Certain marriages to be deemed valid after three years or on death of one of the parties. **30.** Every marriage heretofore or hereafter solemnized between persons not under a legal disqualification to contract such marriage, shall after three years from the time of the solemnization thereof, or upon the death of either of the parties before the expiry of such time, be deemed a valid marriage so far as respects the civil rights in this Province of the parties or their issue, and in respect of all matters within the jurisdiction of the Legislature of Ontario, notwithstanding the clergyman, minister or other person who solemnized the marriage was not duly authorized to solemnize marriages, and notwithstanding any irregularity or insufficiency in the proclamation of intention to intermarry or in the issue of the license or certificate, or notwithstanding the entire absence of either;

Provided that the parties after such solemnization lived Proviso. together and cohabited as man and wife, and that the validity of the marriage has not before such death or prior to the expiry of the said time been questioned in any suit or action : and

Provided further that nothing in this section shall make Proviso. valid any such marriage in case either of the parties thereto had or has previous to the death of the other and previous to the expiration of the said three years contracted matrimony according to law, and in such a case the validity of such marriage shall be determined as if this section had not been passed. 59 V. c. 39, s. 29.

SCHEDULE A.

(Section 4.)

CERTIFICATE OF PUBLICATION OF BANNS.

I hereby certify that on Sunday, the day of , A.D. 18 , the intention of *A. B.*, of (*state residence*) and *C. D.*, of (*state residence*) to intermarry was duly proclaimed by me in Church, being a church in the (*state name of township or other local municipality or parish, circuit or pastoral charge*). I further certify that I verily believe the said *A. B.* (*or C. D.*) had his (*or her*) usual place of abode in the said (*township or other local municipality or parish, circuit or pastoral charge*) for the space of fifteen days immediately preceding the said Sunday.

Dated this day of , A. D. 18 .

Minister of

Church

59 V. c. 39, Sched. A.

SCHEDULE B.

(Section 7.)

FORM OF CERTIFICATE BEFORE MARRIAGE WITHOUT BANNS, WHERE ONE •
OF THE PARTIES HAS RESIDED IN THE COUNTY FOR FIFTEEN DAYS NEXT
PRECEDING THE ISSUE OF THIS CERTIFICATE.

These are to certify that *A. B.*, of and *C. D.*, of being minded, as it is said, to enter into the contract of marriage, and being desirous of having the same duly solemnized, the said *A. B.* (*or C. D.*) has made oath, as required by law, that he (*or she*) believes that there is no affinity, consanguinity, prior marriage, or any other lawful cause or legal impediment, to bar or hinder the solemnization of the said marriage, and that said *A. B.* (*or C. D.* or both, as the case may be), has, (*or have*) had his (*or her, or their*) usual place of abode, for the space of fifteen days last

past, within the city, (county *or* district) of _____ namely, in the town-
ship (town *or* village) of _____ in the said county (or district of _____)
and that the said *A. B.* and *C. D.* are of the full age of eighteen years.

[*Or that A. B. or C. D. is a widower or widow ; or is under the age of
eighteen years, and that the consent of E. D., whose consent to said
marriage is required by law, has been obtained ; or that the father of the
said (party under age) is dead, no guardian of the person of the said (party)
has been appointed, and the mother of the said (party) is dead and there
is no person having authority to give consent to said marriage (as the case
may be).*]

These are therefore to certify that the requirements of *The Marriage
Act* have been complied with and such marriage may be solemnized
in the County of _____ (*naming the county or district within which
it is intended that the marriage shall be solemnized*).

Given under my hand and seal at _____ this _____ day of _____
in the year of Our Lord 18 _____, and in the _____ year of Her Majesty's
reign.

G. H.,
Issuer (or Deputy issuer) of Licenses.

Issued from the Office of the Provincial Secretary for the Province of
Ontario this _____ day of _____ 18 _____.

K. L.,
Provincial Secretary.

59 V. c. 39, Sched. B.

SCHEDULE C.

(Section 7.)

FORM OF CERTIFICATE BEFORE MARRIAGE WITHOUT BANNS, WHERE
NEITHER OF THE PARTIES HAS RESIDED IN THE COUNTY FOR FIFTEEN
DAYS NEXT PRECEDING.

These are to certify that *A. B.*, of _____ and *C. D.*, of _____ being
minded, as it is said, to enter into the contract of marriage and being
desirous of having the same duly solemnized, the said *A. B.* (or *C. D.*) has
made oath that he (or she) believes that there is no affinity, consanguinity
prior marriage or any other lawful cause or legal impediment to bar or
hinder the solemnization of the said marriage, and having also otherwise
made oath as required by law.

These are therefore to certify that the requirements of *The Marriage
Act* have been complied with.

Given under my hand and seal at, etc., (*as in preceding form*).

G. H.,
Issuer (or Deputy Issuer) of Licenses.

Issued, etc.

K. L.,
Provincial Secretary.

59 V. c. 39, Sched. C.

SCHEDULE D.

(Section 17.)

FORM OF AFFIDAVIT.

I, *A. B.* of the _____, in the county of _____ (*addition*) make oath and say as follows :—

1. I and *C. D.* of _____ in the county of _____ (*addition*) are desirous of entering into the contract of marriage, and of having our marriage duly solemnized at the town (*or village, etc.*) of _____ in the county (*or district*) of _____

2. According to the best of my knowledge and^r belief, there is no affinity, consanguinity, prior marriage or any other lawful cause or legal impediment to bar or hinder the solemnization of the said marriage.

3. I (*or the said C. D. or both, as the case may be*) have (*or has*) had since the _____ day of _____ my (*or his or her or our*) usual place of abode within the municipality of _____ in the said county (*or district*. *Or if neither of the parties has, for the space of fifteen days immediately preceding the issue of the certificate of license, had his or her usual place of abode in the county or district in which it is intended that the marriage shall be solemnized, add as follows:—*The reason of procuring the marriage to be solemnized in _____ is not in order to evade due publicity or for any other improper purpose.

4. I am of the age of _____ years, and the said *C. D.* is of full age of 18 years (*or the said C. D. is of the age of _____ years or over*).

5. I am a bachelor (*or widower*), and the said *C. D.* is a spinster (*or widow*).

6. (*If either party be under 18 and not a widower or widow, add*) : *E. D.* of _____, in the county of _____ is the person whose consent to the said marriage is required by law, and the said *E. D.* consents to the said marriage. The paper writing hereto annexed marked "A" is the consent of the said *E. D.* to the said marriage, and the signature thereto is of the proper handwriting of *E. D.*

7. The said *E. D.* is the father of the said *C. D.* [*or the said E. D. is the mother [or guardian duly appointed] of the said C. D., and the father of the said C. D. is dead (or the father and mother of the said C. D. are both dead and no guardian of the said C. D. has been appointed)*].

A. B.

Sworn before me, etc.,

G. H.

Issuer of Licenses.

[NOTE : The form will be varied as the circumstances of the case may require].

SCHEDULE E.

(Section 24.)

REGISTER OF MARRIAGES.

BRIDEGROOM.	
His name.	
Age.	
Residence when married.	
Place of birth.	
Bachelor or Widower. (B. or W.)	
Occupation.	
Religious Denomination of Bridegroom.	
Names of Parents.	

BRIDE.	
Her name.	
Age.	
Residence when married.	
Place of Birth.	
Spinster or Widow. (S. or W.)	
Religious Denomination of Bride.	
Names of Parents.	

Whether Married by License or Banns (L. or B.)	
SIGNATURES	
of Bridegroom	
of Bride	
of Witnesses,	
Residence	
Residence	

I certify the above named parties were married by me at *St. Mark's Church, Toronto*, in the County of *York*, this _____ day of _____ A. D. 18 _____

Rector of *St. Mark's Church, Toronto.*
59 V. c. 39, Sched. E.

CHAPTER 163.

An Act respecting the property of Married Women.

SHORT TITLE, s. 1.	ANTE-NUPTIAL DEBTS AND LIABILITIES, s. 16.
INTERPRETATION, s. 2.	LIABILITY OF HUSBAND FOR WIFE'S DEBTS, ETC., ss. 17, 18.
RIGHT TO HOLD PROPERTY AND TO CONTRACT, ss. 3-7.	QUESTIONS BETWEEN HUSBAND AND WIFE AS TO PROPERTY TO BE DECIDED IN A SUMMARY WAY, s. 19.
EXECUTION OF GENERAL POWER, s. 8.	MARRIED WOMAN AS AN EXECUTRIX OR TRUSTEE, s. 20.
POWER FOR COURT TO BIND INTEREST OF MARRIED WOMAN, s. 9.	SAVING AS TO SETTLEMENTS, s. 21.
DEPOSITS, STOCKS, ETC., STANDING IN NAME OF MARRIED WOMAN TO BE DEEMED HER PERSONAL PROPERTY, ss. 10, 11.	WHEN MARRIED WOMAN MAY OBTAIN ORDER OF PROTECTION FOR EARNINGS OF HER MINOR CHILDREN, s. 22.
INVESTMENTS IN JOINT NAMES OF MARRIED WOMEN AND OTHERS, ss. 12, 13.	LEGAL REPRESENTATIVE OF MARRIED WOMAN, s. 23.
FRAUDULENT INVESTMENTS WITH MONEY OF HUSBAND, s. 14.	RIGHTS PRIOR TO 47 V. c. 19, NOT AFFECTED, s. 24.
REMEDIES OF MARRIED WOMAN FOR PROTECTION OF SEPARATE PROPERTY, s. 15.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as “*The Married Women’s Pro-* Short title.
perty Act.” R. S. O. 1887, c. 132, s. 1.

2. In this Act the word “contract” shall include the Interpretation
acceptance of any trust, or of the office of executrix or admin- “Contract.”
istratrix, and the provisions of this Act as to liabilities of Liabilities.
married women shall extend to all liabilities by reason of any breach of trust or devastavit committed by a married woman being a trustee or executrix or administratrix either before or after her marriage, and her husband shall not be subject to “Property.”
such liabilities unless he has acted or intermeddled in the trust or administration, and the word “property” shall include a thing in action. R. S. O. 1887, c. 132, s. 2.

3.—(1) A married woman shall be capable of acquiring, Married woman to be
holding, and disposing by will or otherwise, of any real or capable of
personal property as her separate property, in the same man- holding
ner as if she were a *feme sole*, without the intervention of property as a
feme sole.
any trustee.

Power to
contract.

(2) A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued, in all respects as if she were a *feme sole*, and her husband need not be joined with her as plaintiff or defendant, or be made a party to any action or other legal proceeding brought by or taken against her; and any damages or costs recovered by her in any such action or proceeding shall be her separate property; and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property, and not otherwise. R. S. O. 1887, c. 132, s. 3 (1, 2).

Contracts
prior to 13th
April, 1897.

(3) Every contract entered into by a married woman prior to the 13th day of April, 1897, shall be deemed to be a contract entered into by her with respect to and to bind her separate property, unless the contrary is shewn.

(4) Every contract entered into by a married woman prior to the said 13th day of April, 1897, with respect to and to bind her separate property, shall bind, not only the separate property which she was possessed of or entitled to at the date of the contract, but also all separate property which she has since acquired or may hereafter acquire. R. S. O. 1887, c. 132, s. 3 (3, 4); 60 V. c. 22, s. 3.

Contracts of
married
women from
13th April,
1897, to bind
all their separ-
ate estate.

4.—(1). Every contract entered into by a married woman on or after the 13th day of April, 1897, otherwise than as an agent:

(a) Shall be deemed to be a contract entered into by her with respect to and to bind her separate property whether she is or is not in fact possessed of or entitled to any separate property at the time when she enters into such contract, and it shall not be necessary in any proceeding to prove that she had any separate property at the time when such contract was entered into, or subsequently;

(b) Shall bind all separate property which she may at the time or thereafter possess or be entitled to; and

(c) Shall also be enforceable by process of law against all property which she may thereafter while discoverd possess or be entitled to.

Except where
restraint on
anticipation
exists.
56-57 V. (Imp.)
c. 63, s. 1.

(2) Nothing in this section contained shall render available to satisfy any liability or obligation arising out of such contract any separate property which she is restrained from anticipating., 60 V. c. 22, s. 1.

A woman
married on
or before 4th
May, 1859,
may hold prop-
erty not then
reduced to
possession of
her husband.

5.—(1) Every woman married on or before the 4th day of May, 1859, without any marriage contract or settlement, shall and may, from and after the said day, notwithstanding her coverture, have, hold and enjoy all her real estate not on or before the said 4th day of May taken possession of by her

husband, by himself or his tenants, and all her personal property not on or before said day reduced into the possession of her husband, whether belonging to her before marriage or in any way acquired by her after marriage, free from his debts and obligations contracted after the said 4th day of May, and from his control or disposition without her consent, in as full and ample a manner as if she were sole and unmarried.

(2) Every woman married between the 5th day of May, 1859, and the 2nd day of March, 1872 (both inclusive), without any marriage contract or settlement, shall and may, notwithstanding her coverture, have, hold and enjoy all her real property, whether belonging to her before marriage or acquired by her by inheritance, devise or gift, or as heir-at-law to an intestate, or in any other way after marriage, free from the debts and obligations of her husband, and free from his control or disposition, without her consent, in as full and ample a manner as if she continued sole and unmarried; but this section shall not extend to any property received by a married woman from her husband during coverture.

A woman married between 1st May, 1859, and 2nd March 1872, may hold her real property free from the debts or control of her husband.

Proviso.

(3) The real estate of any woman married after the 2nd day of March, 1872, whether owned by her at the time of her marriage, or acquired in any manner during her coverture, and the rents, issues and profits thereof respectively, shall, without prejudice and subject to the trusts of any settlement affecting the same, be held and enjoyed by her for her separate use, free from any estate therein of her husband during her lifetime, and from his debts and obligations, and from any claim or estate by him, as tenant by the curtesy; and her receipts alone shall be a discharge for any rents, issues and profits of the same; but nothing herein contained shall prejudice the right of the husband as tenant by the curtesy in any real estate of the wife which she has not disposed of *inter vivos*, or by will.

A woman married after 2nd March, 1872, may hold her real property free from any estate or claim of her husband during her life.

(4) Every woman married since the 4th day of May, 1859, without any marriage contract or settlement, shall and may, notwithstanding her coverture, have, hold and enjoy all her personal property, whether belonging to her before marriage or acquired by her by inheritance, bequest or gift, or as next of kin to an intestate, or in any other way after marriage, free from the debts and obligations of her husband, and free from his control or disposition, without her consent, in as full and ample a manner as if she continued sole and unmarried; but this sub-section shall not extend to any property received by a married woman from her husband during coverture. R. S. O. 1887, c. 132, s. 4.

A woman married since 1st May, 1859, may hold her personal property free from the debts or control of her husband.

Proviso.

6.—(1) Every married woman, whether married before or after the passing of this Act, shall be entitled to have and hold as her separate property, and to dispose of as her separate property, the wages, earnings, money and property, gained or acquired by her in any employment, trade or occupation in

Earnings of married women.

which she is engaged or which she carries on, and in which her husband has no proprietary interest, or gained or acquired by the exercise of any literary, artistic or scientific skill.

Property of a woman married on or after 1st July, 1884, to be held as separate property.

(2) Every woman married on or after the first day of July, 1884, shall also be entitled to have and to hold and to dispose of as her separate property all other real and personal property belonging to her at the time of marriage, or acquired by or devolving upon her after marriage. R. S. O. 1887, c. 132, s. 5.

Property acquired after 1st July, 1884, by a woman married before that date to be held by her as separate property.

7. Every woman married before the first day of July, 1884, shall be entitled to have and to hold and to dispose of in manner aforesaid as her separate property, all real and personal property, her title to which, whether vested or contingent, and whether in possession, reversion, or remainder, shall accrue on or after the said first day of July, including any wages, earnings, money, and property so gained or acquired by her as aforesaid. R. S. O. 1887, c. 132, s. 7.

Execution of general power.

8. The execution of a general power by will by a married woman shall have the effect of making the property appointed liable for her debts and other liabilities in the same manner as her separate estate is made liable under this Act. R. S. O. 1887, c. 132, s. 6.

Power of court to bind interest of married women.

Imp. Act 44-45 V. c. 41, s. 39.

9. Notwithstanding that a married woman is restrained from anticipation, the Court may, if it thinks fit, where it appears to the Court to be for her benefit, by judgment or order, with her consent, bind her interest in any property. R. S. O. 1887, c. 132, s. 8.

As to stock, etc., to which a married woman is entitled.

10. All deposits, all sums forming part of public stocks or funds, which on the first day of July, 1884, were standing in the sole name of a married woman, and all shares, stock, debentures, debenture stock, or other interests of or in any corporation, company, or public body, municipal, commercial, or otherwise, or of, or in any industrial, provident, friendly, benefit, building, or loan society, which, on the first day of July, 1884, were standing in her name, shall be deemed, unless and until the contrary be shewn, to be the separate property of such married woman; and the fact that any such deposit, sum forming part of public stocks, funds, or of any share, stock, debenture, debenture stock, or other interest as aforesaid, is standing in the sole name of a married woman, shall be sufficient *prima facie* evidence that she is beneficially entitled thereto for her separate use, so as to authorize and empower her to receive or transfer the same, and to receive the dividends, interests, and profits thereof, without the concurrence of her husband, and to indemnify all public officers, and all directors, managers, and trustees of every such corporation, company, public body, or society as aforesaid, in respect thereof. R. S. O. 1887, c. 132, s. 9.

11. All such particulars mentioned in the preceding section which after the first day of July, 1884, were placed, or transferred in or into, or made to stand, in the sole name of any married woman shall be deemed, unless and until the contrary be shewn, to be her separate property, in respect of which, so far as any liability may be incident thereto, her separate estate shall alone be liable, whether the same shall be so expressed in the document whereby her title to the same is created or certified, or in the books or register wherein her title is entered or recorded or not; Provided always, that nothing in this Act shall require or authorize any corporation or joint stock company to admit any married woman to be a holder of any shares or stock therein to which any liability may be incident contrary to the provisions of any statute, charter, by-law, articles of association, or deed of settlement regulating such corporation or company. R. S. O. 1887, c. 132, s. 10.

As to stock, etc., transferred, etc., to a married woman.

Proviso.

12. All the provisions hereinbefore contained as to such particulars mentioned in section 10, which on the first day of July, 1884, were standing in the sole name of a married woman, or which after that time shall be placed or transferred to or into or made to stand in the sole name of a married woman, shall respectively extend and apply, so far as relates to the estate, right, title, or interest of the married woman, to any of the particulars aforesaid which, on the 25th day of March, 1884, were standing in, or which shall be placed, or transferred to or into, or made to stand in, the name of any married woman jointly with any person or persons other than her husband. R. S. O. 1887, c. 132, s. 11.

Investments in joint names of married women and others.

13. It shall not be necessary for the husband of any married woman, in respect of her interest, to join in the transfer of any such particulars named in section 10, which shall be standing in the sole name of any married woman, or in the joint names of such married woman and any other person or persons not being her husband. R. S. O. 1887, c. 132, s. 12.

As to stock, etc., standing in the joint names of a married woman and others.

14. If any investment in any of the particulars set forth in section 10 shall have been made by a married woman by means of moneys of her husband, without his consent, the Court may, upon an application under section 19 of this Act, order such investment, and the dividends thereof, or any part thereof, to be respectively transferred and paid to the husband; and nothing in this Act contained shall give validity as against creditors of the husband, to any gift, by a husband to his wife, of any property, in fraud of his creditors, or to any deposit or other investment of moneys of the husband made by or in the name of his wife in fraud of his creditors; but any property

Fraudulent investments with money of husband.

or moneys so deposited or invested may be followed as if this Act had not been passed. R. S. O. 1887 c. 132, s. 13.

Remedies of married woman for protection and security of separate property.

Torts as between husband and wife.

15. Every woman, whether married before or after this Act, shall have in her own name against all persons whomsoever, including her husband, the same remedies for the protection and security of her own separate property, as if such property belonged to her as a *feme sole*, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort. In any proceeding under this section it shall be sufficient to allege such property to be her property; and in any proceeding under this section a husband and wife shall be competent to give evidence against each other. R. S. O. 1887 c. 132, s. 14.

Wife's ante-nuptial debts and liabilities.

16. A woman after her marriage shall continue to be liable in respect and to the extent of her separate property for all debts contracted, and all contracts entered into or wrongs committed by her before her marriage; and she may be sued for any such debt and for any liability in damages or otherwise under any such contract, or in respect of any such wrong; and all sums recovered against her in respect thereof, or for any costs relating thereto, shall be payable out of her separate property; and, as between her and her husband, unless there be any contract between them to the contrary, her separate property shall be deemed to be primarily liable for all such debts, contracts or wrongs, and for all damages or costs recovered in respect thereof: Provided always, that nothing in this Act shall operate to increase or diminish the liability of any woman married before the commencement of this Act for any such debt, contract or wrong, as aforesaid. R. S. O. 1887, c. 132, s. 15.

Proviso.

Husband to be liable for his wife's debts and other liabilities to a certain extent.

17. A husband shall be liable for the debts of his wife contracted, and for all contracts entered into and wrongs committed by her, before marriage, and for wrongs committed by her after marriage, to the extent of all property whatsoever belonging to his wife which he shall have acquired or become entitled to from or through his wife, after deducting therefrom any payments made by him, and any sums for which judgment may have been *bona fide* recovered against him in any legal proceeding, in respect of any such debts, contracts or wrongs, for or in respect of which his wife is liable; but he shall not be liable for the same any further or otherwise; and any Court in which a husband shall be sued for any such debt or liability shall have power to direct any inquiry or proceedings which it may think proper for the purpose of ascertaining the nature, amount or value of such property: Provided always, that nothing in this Act contained shall operate to increase or diminish the liability of any husband married before the first day of July, 1884, for or in respect of any such debt or other liability of his wife as aforesaid. R. S. O. 1887, c. 132, s. 16.

Proviso.

18. A husband and wife may be jointly sued in respect of any such debt or other liability (whether for contract or for any wrong) contracted or incurred by the wife as aforesaid if the plaintiff in the action shall seek to establish his claim either wholly or in part, against both of them; and if in any such action, or in any action brought in respect of any such debt or liability against the husband alone, it is not found that the husband is liable in respect of any property of the wife so acquired by him or to which he shall have become so entitled as aforesaid, he shall have judgment for his costs of defence, whatever may be the result of the action against the wife if jointly sued with him; and in any such action against husband and wife jointly, if it appears that the husband is liable for the debt or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband personally and against the wife as to her separate property; and as to the residue, if any, of such debt and damages, the judgment shall be a separate judgment against the wife as to her separate property only. R. S. O. 1887, c. 132, s. 17.

Suits for wife's liabilities.

19.—(1) In any question between husband and wife as to the title to or possession of property, either party, or any corporation, company, public body, or society in whose books any stocks, funds or shares of either party are standing, may apply by summons or otherwise, in a summary way, to a Judge of the High Court, or (at the option of the applicant, irrespectively of the value of the property in dispute) to the Judge of the County Court of the county in which either party resides, and the Judge may make such order with respect to the property in dispute, and as to the costs of and consequent on the application, as he thinks fit; or may direct such application to stand over from time to time, and any inquiry touching the matters in question to be made in such manner as he shall think fit.

Questions between husband and wife as to property may be decided in a summary way.

(2) Any order of a Judge of the High Court, made under the provisions of this section, shall be subject to appeal in the same way as an order made by the same Judge in an action in the said Court.

(3) Any order of a County Court, under the provisions of this section, shall be subject to appeal in the same way as any other order made by the same Court.

(4) All proceedings in a County Court, under this section, in which, by reason of the character or value of the property in dispute, such Court would not have had jurisdiction if this Act had not passed, may, at the option of the defendant or respondent to such proceedings, be removed as of right into the High Court, by *certiorari*, or otherwise, as may be prescribed by the Rules of Court; but any order made or act done in the course of the proceedings, prior to the removal,

shall be valid, unless order is made to the contrary by the High Court.

(5) The Judge of the High Court, or County Court, if either party so request, may hear any such application in his private room.

(6) Any such corporation, company, public body, or society, as aforesaid, shall, in the matter of any such application, for the purposes of costs or otherwise, be treated as a stakeholder only. R. S. O. 1887, c. 132, s. 18.

Married woman as an executrix or trustee.

20. A married woman, who is an executrix or administratrix, alone or jointly with any other person or persons, of the estate of any deceased person, or a trustee alone or jointly as aforesaid, of property subject to any trust, may sue or be sued, and may transfer or join in transferring, in that character, any such particulars as are mentioned in section 10, without her husband, as if she were a *feme sole*. R. S. O. 1887, c. 132, s. 19.

Saving of existing settlements, and the power to make future settlements.

21. Nothing in this Act contained shall interfere with or affect any settlement or agreement for a settlement made or to be made, whether before or after marriage, respecting the property of any married woman, or shall interfere with or render inoperative any restriction against anticipation at present attached or to be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will, or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement of a woman's own property to be made or entered into by herself shall have any validity against debts contracted by her before marriage, and no settlement or agreement for a settlement shall have any greater force or validity against creditors of such woman than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors. R. S. O. 1887, c. 132, s. 20.

In what cases a married woman may obtain an order of protection for the earnings of her minor children.

22.—(1) Any married woman having a decree for alimony against her husband, or any married woman who lives apart from her husband, having been obliged to leave him from cruelty, or other cause which by law justifies her leaving him and renders him liable for her support, or any married woman whose husband is a lunatic either with or without lucid intervals, or any married woman whose husband is undergoing sentence of imprisonment in the Provincial Penitentiary or in any gaol for a criminal offence, or any married woman whose husband from habitual drunkenness, profligacy, or other cause, neglects or refuses to provide for her support and that of his family, or any married woman whose husband has never been in this Province, or any married woman who is deserted or abandoned by her husband, may obtain an order of protection, entitling her, notwithstanding her coverture, to have and to enjoy all the

earnings of her minor children, and any acquisitions therefrom, free from the debts and obligations of her husband and from his control or disposition, and without his consent, in as full and ample a manner as if she continued sole and unmarried.

Purport and effect of such order.

(2) The married woman may at any time apply, or the husband or any of the husband's creditors may at any time, on notice to the married woman, apply for the discharge of the order of protection; and if an order for such discharge is made the same may be registered or filed like the original order.

How and by whom an order discharging protection may be obtained.

(3) Either order may issue in duplicate, and where the married woman resides in a city or town in which there is a Police Magistrate, the order for protection or any order discharging the same shall be made by the Police Magistrate, and shall be registered in the registry office of the registry division in which the city or town is situate.

Either order may be in duplicate. By whom to be made in cities and towns. Registration.

(4) Where the married woman does not reside in a city or town in which there is a Police Magistrate, the order shall be made by the Judge or one of the Judges, or the acting or Deputy Judge of the Division Courts or a Division Court of the county in which the married woman resides; and instead of being registered, shall be filed for public inspection with the Clerk of the Division Court of the division within which the married woman resides.

By whom order made elsewhere than in city or town.

(5) The hearing of an application for an order of protection, or for an order discharging the same may be public or private, at the discretion of the Judge or Police Magistrate.

Hearing may be public or private.

(6) The order for protection shall have no effect until it is registered or filed, and the registrar or clerk shall immediately on receiving the order endorse thereon the day of registering or filing the same; and a certificate of the registering or filing and date, signed by the registrar or clerk for the time being, shall be *prima facie* evidence of such registering or filing and date; and a copy of the order which is registered or filed certified under the hand of the Registrar or Clerk to be a true copy thereof, shall be sufficient *prima facie* evidence of the order without proof of the signature of the Registrar or Clerk, and without further proof of the order itself, or of the making or validity thereof.

Order not to have effect until registered or filed. Evidence of order, etc.

(7) The order for discharging an order of protection shall not in any case be retroactive, but shall take effect from the time it is made, and the order for protection shall protect the earnings of the minor children of the married woman until an order is made discharging such order of protection, and the married woman shall continue to hold and enjoy to her separate use whatever, during the interval between the registering or filing of the order of protection and the making of the order discharging the same, she may have acquired by the earnings of her minor children. R. S. O. 1887, c. 132, s. 21.

From what time the order discharging protection shall take effect.

Legal
representative
of married
woman.

23. For the purposes of this Act the legal personal representative of any married woman shall, in respect of her separate estate, have the same rights and liabilities and be subject to the same jurisdiction as she would have or be if she were living. R. S. O. 1887, c. 132, s. 22.

Married
women's rights
prior to 1st
July, 1884, not
affected.

47 V. c. 19.

24. This Act shall not be construed to deprive a woman married prior to the commencement of *The Married Women's Property Act, 1884*, of any right or privilege which she had at the time of the commencement of that Act, or would afterwards have had if that Act had not been passed. R. S. O. 1887, c. 132, s. 24.

CHAPTER 164.

An Act respecting Dower.

SHORT TITLE, s. 1.	EFFECT OF BAR OF DOWER IN MORTGAGES, ss. 7-10.
DOWER OUT OF EQUITABLE ESTATES, s. 2.	PROVISIONS FOR CONVEYING FREE FROM DOWER WHERE WIFE DISENTITLED OR A LUNATIC, ss. 11-17.
DOWER WHERE HUSBAND HAD A RIGHT OF ENTRY, s. 3.	REGISTRATION AND FORM OF ORDERS, ss. 18-21.
DOWER NOT RECOVERABLE OUT OF WILD LANDS, s. 4.	CERTAIN DEEDS TO HAVE THE EFFECT OF BARRING DOWER, s. 22.
DOWER IN CERTAIN MINING LANDS, s. 5.	
NO DOWER <i>ad ostium ecclesie</i> or <i>ex assensu patris</i> , s. 6.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Dower Act*," 59 V. Short title, c. 40, s. 1.

2. Where a husband dies beneficially entitled to any land for an interest which does not entitle his widow to dower at common law, and such interest, whether wholly equitable or partly legal and partly equitable, is an estate of inheritance in possession, or equal to an estate of inheritance in possession, (other than an estate in joint tenancy), then his widow shall be entitled to dower out of such land. R. S. O. 1887, c. 133, s. 1.

3. Where a husband has been entitled to a right of entry or action in any land, and his widow would be entitled to dower out of the same if he had recovered possession thereof, she shall be entitled to dower out of the same although her husband did not recover possession thereof; but such dower shall be sued for or obtained within the period during which such right of entry or action might be enforced. R. S. O. 1887, c. 133, s. 2.

4. Dower shall not be recoverable out of any separate and distinct lot, tract or parcel of land, which, at the time of the alienation by the husband or at the time of his death, if he died seised thereof, was in a state of nature, and unimproved by clearing, fencing or otherwise for the purposes of cultivation or occupation; but this shall not restrict or diminish the right to have woodland assigned to the dowress under section

Rev. Stat.
c. 67.

9 of *The Dower Procedure Act*, from which it shall be lawful for her to take firewood necessary for her own use, and timber for fencing the other portions of land assigned to her of the same lot, tract or parcel. R. S. O. 1887, c. 133, s. 3.

Dower in land
patented as
Mining Land.

5. No dower shall be recoverable out of any land which has been heretofore or shall be hereafter granted by the Crown as mining land in case such land is on or after the 31st day of December, 1897, conveyed to the husband of the person claiming dower and such husband does not die entitled thereto. 60 V. c. 15, s. 6.

Certain dower
abolished.

6. No widow shall be entitled to dower *ad ostium ecclesie*, or dower *ex assensu patris*. R. S. O. 1887, c. 133, s. 4.

Effect of bar
of dower in
mortgages.

7.—(1) No bar of dower contained in any mortgage, or other instrument intended to have the effect of a mortgage or other security, upon real estate, shall operate to bar such dower to any greater extent than shall be necessary to give full effect to the rights of the mortgagee or grantee under such instrument. R. S. O. 1887, c. 133, s. 5.

Wife entitled
to dower
in surplus of
purchase
money arising
from sale
under mort-
gage.

(2) In the event of a sale of the land comprised in such mortgage or other instrument, under any power of sale contained therein or under any legal process, the wife of the mortgagor or grantor who shall have so barred her dower in such lands, shall be entitled to dower in any surplus of the purchase money arising from such sale, which may remain after satisfaction of the claim of the mortgagee or grantee, to the same extent as she would have been entitled to dower in the land from which such surplus purchase money shall be derived had the same not been sold. R. S. O. 1887, c. 133, s. 6.

[*As to right to dower under The Land Titles Act where land acquired subject to a charge, or where owner after charging land marries, see Cap. 138, s. 50.*]

Where made
on or after
16th April,
1895.

8.—(1) In the event of the land, comprised in any mortgage or other instrument executed on or after the 16th day of April, 1895, by which the mortgagor's wife barred her dower, being sold under any power of sale contained in the mortgage, or under any legal process, the wife shall be entitled to dower in any surplus of the purchase money arising from such sale, which may remain after satisfaction of the claim of the mortgagee or grantee, to the same extent as she would have been entitled to dower in the land had the same not been sold; and the amount, to which she is entitled shall be calculated on the basis of the amount realized from the sale of the land, and not upon the amount realized from the sale over and above the amount of the mortgage only.

(2) This section shall not apply where the mortgage is for the unpaid purchase money of the land; and nothing in this section contained shall be construed to affect, by implication or

otherwise, any question in the case of mortgages executed before the said 16th day of April, 1895. 58 V. c. 25, s. 3.

9.—(1) A mortgagee or other person holding any money out of which a married woman shall be dowable under the preceding two sections of this Act may pay the same into the High Court to the credit of such married woman and the other persons interested therein. Payment of money into court.

(2) The High Court or a Judge thereof, may on a summary application by petition or motion, make such order for securing the right of dower of any married woman, in any money out of which she shall be dowable, as may be just. R. S. O. 1887, c. 133, s. 7. Order for securing right of dower.

10. A widow shall not be entitled to take her interest in money under sections 7 and 8 of this Act, and in addition thereto a share of the money as personal estate. R. S. O. 1887, c. 133, s. 8. Widow's election.

11. Where a person, whose wife is a lunatic and confined as such in a public lunatic asylum in this Province, has heretofore while his wife was so confined, become the owner of land or hereafter while she is so confined becomes the owner of land, such person may sell and convey or mortgage such land, freed and discharged of any claim of his said wife for dower therein, but no such conveyance or mortgage shall be made after the discharge of the said wife from the said asylum. 59 V. c. 40, s. 5. Where wife is a lunatic confined in an asylum and husband during such confinement acquires land.

12.—(1) Where the wife of an owner of land has been living apart from him for two years under such circumstances as by law disentitle her to alimony, and such owner is desirous of selling or mortgaging the land free from dower, he may apply to a Judge of the High Court, and, if the Judge approves, he may, by an order to be made by him in a summary way, upon such evidence as to the Judge seems meet, and either *ex parte* or upon notice (to be served personally unless the Judge otherwise directs), dispense with the concurrence of the wife for the purpose of barring her dower, and he shall (unless the wife has been so living apart from her husband under such circumstances as disentitle her to dower) ascertain and state in the order the value of such dower, and order such amount to remain a charge upon the property, or to be secured otherwise for the wife's benefit, or to be paid and applied for her benefit as he deems best; and thereupon a conveyance or mortgage by the husband, expressed to be free from his wife's dower, shall, subject to any terms mentioned in the order, be sufficient to bar her right thereto, as if she had duly executed a deed jointly with her husband for that purpose. Application in order to mortgage or sell free from dower where wife living apart from her husband.

(2) This section shall extend to any case in which an agreement for sale had been made, and a conveyance executed

by the husband before the 5th day of March, 1880, and part of the purchase money retained by the purchaser on account of dower or an indemnity given against such dower. R. S. O. 1887, c. 133, s. 9.

Application where wife is a lunatic confined in an asylum.

Dower to be ascertained and to be charge on land or secured for wife's benefit.

13.—(1) Where an owner of land whose wife is a lunatic, or of unsound mind, and confined as such in a lunatic asylum, is desirous of selling or mortgaging the land free from dower, he may apply in that behalf to the Judge of the County Court of the county in which he resides or to a Judge of the High Court, and if the Judge approves, he may, by an order to be made by him in a summary way, upon such evidence as to the Judge seems meet, and either *ex parte* or upon such notice as he may deem requisite, dispense with the concurrence of the wife for the purpose of barring her dower, and he shall also ascertain and state in the order the value of such dower, and order such amount to remain a charge upon the property, or to be secured otherwise for the wife's benefit, or to be paid and applied for her benefit as he deems best, and thereupon a conveyance or mortgage by the husband, expressed to be free from his wife's dower, shall, subject to the terms and conditions mentioned in the order, be sufficient to bar her right thereto, as if she were of sound mind, and had duly executed a deed jointly with her husband for that purpose.

(2) On every such application the Judge shall be entitled to his own use to a fee of \$5, and no other fee or charge of any kind shall be payable in respect thereof.

(3) This section shall apply to any case in which an agreement for sale has been made and a conveyance has been executed by the husband, and any part of the purchase money has been retained by the purchaser on account of dower, and to any case in which an indemnity has been given against the dower of the wife. R. S. O. 1887, c. 133, s. 10.

Application where wife is lunatic but not confined in an asylum.

14.—(1) In case the gaol surgeon of any county or district in which a married woman resides, and another medical practitioner to be named by the Judge, shall each certify (Form A) that he has personally examined such married woman and that he is of opinion that she is insane, and the Judge of the County Court of the county in which such married woman resides, or a Judge of the High Court, also certifies (Form B) that he has personally examined such married woman, and that from such examination and from the evidence adduced before him, if such Judge thinks it expedient to hear evidence, he is of opinion that such married woman is insane, the said Judge may make the like order as by the preceding section of this Act, is authorized in the case of a married woman of unsound mind who is confined in an asylum for the insane.

(2) The examination and certificates required by this section must all be made and granted within a period of one month,

or such certificates shall not be acted upon by the said Judge, and the application shall not be entertained unless it is made within one month of the day upon which the last of such examinations took place. R. S. O. 1887, c. 133, s. 11.

15. In case a Judge makes an order under any of the preceding three sections of this Act, with reference to any parcel of land, he may afterwards make orders in respect of other sales or mortgages, either on the like evidence as is required for the first application, or on any other evidence which may satisfy him, of the continued insanity of the married woman. R. S. O. 1887, c. 133, s. 12.

Subsequent orders by judge as to other sales or mortgages.

16. Sections 12, 13, 14 and 15 of this Act shall apply to any case where any person owns, or has the right to sell or mortgage (whether as trustee or otherwise), land which is subject to dower, whether such dower is inchoate or complete, and whether the person applying is or is not the husband of the dowress. R. S. O. 1887, c. 133, s. 13.

Application of ss. 12-15.

17.—(1) Where the wife of an owner of land has been living apart from her husband for five years or more, and the husband sells and conveys, or has sold and conveyed the land, or mortgages, or has mortgaged the same, the wife not joining in the conveyance or mortgage, and the purchaser or mortgagee having no notice that the grantor or mortgagor had a wife living at the time, such purchaser or mortgagee, may apply to a Judge of the High Court and have the same relief, or to the same effect, and subject to the same conditions, and by the same proceedings, as provided for a husband of a lunatic wife under this Act. 59 V. c. 40, s. 2.

Where wife of vendor or mortgagor has been living apart from husband for five years.

(2) The rule and practice shall be the same where the husband is living with or recognizing another woman as his wife, the purchaser or mortgagee having no notice of her not being his wife and no notice that the grantor or mortgagor had a rightful wife with whom he is not living. 59 V. c. 40, s. 3.

Where husband is living with another woman as his wife.

(3) Any person claiming under the grantee or mortgagee shall be entitled to apply in like manner and obtain like relief on the foundation of the right of the said grantee or mortgagee in that behalf, or of the applicant's own interest having been acquired by purchase for value in good faith without notice of the owner aforesaid having had a wife at the time of the conveyance or mortgage, and such owner may apply in like manner and have like relief. 59 V. c. 40, s. 4.

Relief of persons claiming under grantee or mortgagee.

18. The order may be in duplicate or in as many parts as are necessary, and shall be signed by the Judge, and may be registered in the registry office of the registry division wherein the lands to which the same relates are situate, upon its production and deposit, without any proof thereof; and

Registration of order.

such registration may take place either before or after the execution of the deed made in pursuance of such order. R. S. O. 1887, c. 133, s. 14.

Order may be indorsed on deed.

19. The order may, if desired, be indorsed or written upon the deed to which the same relates, in which case it shall be registered as part of the deed. R. S. O. 1887, c. 133, s. 15.

Fee for registration of order.

20. For the registration of the order including all necessary entries and certificates, the registrar shall be entitled to a fee of \$1, unless the order is indorsed or written upon the deed in which case no fee shall be payable in respect of the registration thereof. R. S. O. 1887, c. 133, s. 16.

Description of land in order when order indorsed on deed.

21. If the order is indorsed or written upon the deed to be made in pursuance thereof, the real estate to which the same relates may be described in the order by reference to the description contained in the deed. R. S. O. 1887, c. 133, s. 17.

Case where action not maintainable.

22.—(1) No action of dower shall be maintained, in case the dowress has joined in a deed to convey the land, or to release her dower therein, to a purchaser for value, though the acknowledgment required by law at the time may not have been made or taken, or though there may have been an informality in the making, taking or certifying such acknowledgment. R. S. O. 1887, c. 56, s. 2.

Deeds barring dower before 2nd March, 1877, confirmed.

(2) Nor shall an action of dower be maintained where a husband has before the 2nd day of March, 1877, duly conveyed land of which he was owner, and his wife has before the said day executed a deed or conveyance for the purpose of barring her dower, notwithstanding her husband is not a party to such deed or conveyance, and the said deed or conveyance shall be taken and adjudged to be valid and effectual to have barred her dower in the lands in which such deed or conveyance professed to bar dower, notwithstanding the absence or want of a certificate touching her consent to be barred of her dower, and notwithstanding any irregularity, informality, or defect in the certificate (if any), and notwithstanding that such deed or conveyance may not have been executed, acknowledged or certified, as required by any Act on or before the said day in force, respecting the barring of dower. R. S. O. 1887, c. 133, s. 18.

Wife joining in deed with-out releasing dower.

(3) Nor shall an action of dower be maintained where a wife on or after the 16th day of April, 1895, has joined or hereafter joins in a deed purporting to convey the land, or has signed or signs, otherwise than as a witness, a deed by which her husband conveys or purports to convey the land, notwithstanding that the deed in either case contains no words purporting to convey or release her dower or other estate or interest in the land. 58 V. c. 25, s. 1

Deeds executed before 16th April, 1895.

(4) Nor shall an action of dower be maintained where the wife did prior to the said 16th day of April, 1895, join in or

sign any such deed ; but this subsection is not to be construed as prejudicing or affecting in any way the rights of third persons claiming the land or some interest therein under a subsequent deed or mortgage executed by the wife prior to the said 16th day of April, 1895, and containing a conveyance or release of her dower or other estate or interest. 58 V. c. 25, s. 2.

[*For right of married women to convey or release dower, see Cap. 165.*]

FORM A.

(Section 14.)

CERTIFICATE OF MEDICAL PRACTITIONER.

I, the undersigned (here set forth the qualification or degree of the person certifying: for example, "Licentiate of the Medical Board," "M.D. of the University of Toronto," etc.) a legally qualified Medical Practitioner, residing and practising at _____ do hereby certify that I, on the _____ day of _____ A.D. 18____, at _____ in the County of _____ separately from any other Medical Practitioner, personally examined A. B. of the Township of _____ in the County of _____ wife of C. B., of the Township of _____ and I further certify that the said A. B. is insane and that I have formed this opinion upon the following grounds namely: (*here state the facts upon which the Certificate is based.*)

Signed this _____ day of _____ in the County of _____ A.D. 18____, at _____

R. S. O. 1887, c. 133, Form A.

FORM B.

(Section 14.)

CERTIFICATE OF JUDGE.

Province of Ontario. }
County of _____ }

I, the undersigned, E. F. Judge of the County Court of the County of _____ do hereby certify that I on the _____ day of _____ A.D. 18____, personally examined A. B., of the _____ of _____ in the County of _____ wife of C. B. of the _____ of _____ in the County of _____ and I do hereby further certify that from such personal examination (and from the evidence of G. H. and J. K. adduced before me, if evidence has been taken by the judge) I am of opinion that the said A. B. is insane.

Signed this _____ day of _____ A.D. 18____, at _____ in the County of _____

R. S. O. 1887, c. 133, Form B.

CHAPTER 165.

An Act to facilitate the conveyance of Real Estate by Married Women.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

Short title. 1. This Act may be cited as "*The Married Woman's Real Estate Act*." R. S. O. 1887, c. 134, s. 1.

Interpretation. 2. In the construction of this Act
 "Real estate." 1. "Real estate" shall extend to lands, chattels real, rents and hereditaments, whether corporeal or incorporeal, and to any undivided share thereof; to any estate, right or interest therein, whether legal or equitable; to any charge, lien or incumbrance in, upon, or affecting real estate, to money subject to be invested in real estate; and to any interest, charge, lien or incumbrance in, upon, or affecting such money as aforesaid. R. S. O. 1887, c. 134, s. 2 (1).

"Judge." 2. "Judge" shall mean a Judge of the High Court. R. S. O. 1887, c. 127, s. 2 (2); 51 V. c. 21, s. 1.

A married woman may convey real estate, and release or extinguish powers and appoint an attorney as a *feme sole*. 3. Every married woman being of the full age of twenty-one years, may, by deed, convey her real estate, and convey release, surrender, disclaim, or extinguish any interest therein, and may also, by deed, release or extinguish any power which may be vested in, or limited or reserved to her in regard to real estate, and may also, by deed, bar her dower, and any right or inchoate right of dower in any real estate, and may also, by deed, appoint an attorney or attorneys for the purposes aforesaid and every of them as fully and effectually as she could do if she were a *feme sole*. R. S. O. 1887, c. 134, s. 3.

Wife purporting to bar dower prior to 5th May, 1891, when under age. 4. Where a conveyance to a purchaser for value purporting to bar or release dower in any land was before the 5th day of May, 1894, executed by a wife entitled to an inchoate right of dower, and such wife was at the time of such execution under age, but the purchaser had at or before the execution of the conveyance and payment of the purchase money no notice that she was under age, the conveyance shall be effectual to bar her dower, unless prior to the 1st day of January, 1899, she brings an action for dower, or gives to the owner of the land written notice of her claim to dower by reason of her minority as aforesaid, but nothing in this section contained shall affect any conveyance which prior to the 31st day of December, 1897, became valid under the Act passed in the

fifty-ninth year of Her Majesty's reign, entitled *An Act relating to Dower in Certain Cases*. 59 V. c. 40. 60 V. c. 3, s. 3; c. 15, Sched. A (80).

5. Any married woman, under twenty-one years of age, of sound mind, might on and since the 5th day of May, 1894, and hereafter may bar her dower in any land or hereditaments by joining with her husband in a deed or conveyance thereof to a purchaser for value, or to a mortgagee, in which deed or conveyance a release or bar of her dower is contained, and she may in like manner release her dower to any person to whom such lands or hereditaments have been previously conveyed. 57 V. c. 41, s. 1.

Married women under twenty-one barring dower.

6.—(1) Every conveyance before the 29th day of March, 1873, executed by a married woman of or affecting her real estate, in which her husband was a party, is, and shall be taken and adjudged to be valid and effectual to have passed the estate which such conveyance professed to pass of such married woman in the said real estate, notwithstanding the absence or want of a certificate of her consent to convey the same; and notwithstanding any irregularity, informality, or defect in the certificate (if any); and notwithstanding that such conveyance may not have been executed, acknowledged or certified as required by any Act at or before the said date in force respecting the conveyance of real estate by married women, or may not have been executed by the married woman in presence of her husband, or on the same day on which or at the same place at which such conveyance was executed by her husband. R. S. O. 1887, c. 134, s. 4.

Defective conveyances to be valid.

(2) Nothing in this section contained shall render valid any conveyance to the prejudice of any title, subsequently to the execution of such conveyance and before the said date acquired from the married woman by deed duly executed and certified as by law required, unless the actual possession or enjoyment of the real estate conveyed or intended to be conveyed by the prior conveyance has been had at any time subsequent thereto by the grantee therein, or those claiming by, from or under him, and he or they have been in such actual possession or enjoyment, continuously for the period of three years before the said date, and he or they were at the said date in the actual possession or enjoyment thereof; and nothing in this Act contained shall render valid any conveyance from the married woman which was not executed in good faith, or any conveyance of land of which the married woman or those claiming under her, is or are in the actual possession or enjoyment contrary to the terms of such conveyance. R. S. O. 1887, c. 134, s. 5.

Certain titles not to be prejudiced.

7.—(1) Every conveyance before 29th March, 1873, executed by a married woman, of or affecting her real estate shall, notwithstanding her husband did not join therein, be taken and adjudged to be, and to have been valid and effectual to have

Deeds made by married women without their husbands before 29th March, 1873.

passed the estate which such conveyance professed to pass, of such married woman in the said real estate. 59 V. c. 41, s. 1.

Certain titles not to be prejudiced.

(2) Nothing in this section contained shall render valid any such conveyance as aforesaid to the prejudice of any title subsequently to the execution of such conveyance and before the 7th day of April, 1896, acquired from the married woman by deed duly executed and certified as by law required, unless the actual possession or enjoyment of the real estate conveyed or intended to be conveyed by the prior conveyance shall have been had at any time subsequent thereto by the grantee therein, or those claiming, by, from, or under him, and he or they shall have been in such actual possession or enjoyment continuously for the period of three years before the said 7th day of April, and he or they was or were at such date in the actual possession or enjoyment thereof; and nothing in this Act contained shall render valid any conveyance from the married woman which was not executed in good faith, or any conveyance of land of which the married woman or those claiming under her, is or are in the actual possession or enjoyment contrary to the terms of such conveyance, nor shall this section affect any litigation pending on the 7th day of April, 1896. 59 V. c. 41, s. 2.

Validity of conveyances made since March 29th, 1873.

8.—(1) Every conveyance made on or after the 29th day of March, 1873, by a married woman of or affecting her real estate which her husband signed or executed, shall be taken and adjudged to be valid and effectual, to have passed or to pass the estate which such conveyance professed or shall profess to pass of such married woman in said real estate. R. S. O. 1887, c. 134, s. 6.

Certain titles not to be prejudiced.

(2) Nothing in this section contained shall render valid any conveyance to the prejudice of any title lawfully acquired from any married woman prior to the 23rd day of April, 1887, nor render valid any conveyance from the married woman not executed in good faith or any conveyance of any land, of which the married woman, or those claiming under her was or were on the said day in actual possession or enjoyment contrary to the terms of such conveyance, or affect any action or proceeding then pending. R. S. O. 1887, c. 134, s. 7.

This section not to affect construction of any statute.

(3) This section shall not be deemed to declare or imply any construction of any statute passed prior to the 23rd day of April, 1887, as affecting the matters mentioned in this section, or any other matters relating to the rights or powers of married women. R. S. O. 1887, c. 134, s. 8.

Judge may dispense with concurrence of husband in certain cases.

9.—(1) In any case where a husband is entitled to tenancy by the curtesy in the real estate of his wife, and in any case where a married woman is unable to give a valid deed of her real estate without her husband joining therein, if the husband of a married woman is in consequence of being a lunatic, idiot,

or of unsound mind (and whether he has been found such by inquisition or not), or is from any other cause incapable of executing a deed or conveyance, or if his residence is not known, or he is in prison, or is living apart from his wife by mutual consent, or under circumstances which entitle her to alimony, or if he has deserted her, or if there is in the opinion of the Judge any other cause for so doing, a Judge may, by an order to be made by him in a summary way upon the application of the wife—upon such evidence as to him seems meet, and upon such notice to the husband as he deems requisite, dispense with the execution of the deed or conveyance by or concurrence of the husband therein in any deed or conveyance of the real estate of his wife and enable the wife effectually to convey such real estate without such execution by or concurrence of the husband, and free from any estate of the husband by the curtesy, and all acts or deeds done or executed by the wife, in pursuance of such order in regard to her real estate shall be done, executed, or made by her in the same manner, and with the same effect as if she were a *feme sole*, and when so done, executed, or made by her shall be as good, valid and effectual as they would have been if the husband had become a party to and executed the same. Where the residence of the husband is not known notice to him shall not be necessary. 51 V. c. 21, s. 2 (9).

(2) Nothing in this section contained shall be taken or construed as implying that a married woman may not, without and irrespective of the provisions of this section validly execute and make any deed, transfer or conveyance of her real estate, or of any right or interest therein, in all respects as if she were a *feme sole*. 51 V. c. 21, s. 3.

Right of married women to convey real property not affected.

10. The order may be in the form following, or to the like effect :—

Form of order

“THE MARRIED WOMAN’S REAL ESTATE ACT.”

Upon application of *A. B.*, of _____ the wife of *C. B.*,
(or formerly of, etc.) I, _____ one of the Judges of the
High Court of Justice for Ontario (or as the case may be), do, pursuant to
“*The Married Woman’s Real Estate Act*,” order that the said *A. B.* may,
in the same manner, and with the same effect, as if she were a *feme sole*,
and free from any estate of her husband by the curtesy, bargain, sell, and
convey all or any part of her estate, title, and interest of, in, to or out of
all and singular (*describe the premises*).

Dated this

day of

A. D.

(Signature of Judge.)

51 V. c. 21, s. 2 (10).

11. The order may be in duplicate or in as many parts as are necessary, and shall be signed by the Judge, and may be registered.

Order may be registered.

registered in the registry office of the registry division wherein the lands to which the same relates are situate, upon its production and deposit, without any proof thereof; and such registration may take place either before or after the execution of the deed made in pursuance of such order. 51 V. c. 21, s. 2 (11).

Order may be written on deed.

Description of property where order written on deed.

Filing of papers on application.

12. The order may, if desired, be indorsed or written upon the deed to which the same relates, in which case it shall be registered as part of the deed, and the real estate to which the order relates may be described therein by reference to the description contained in the deed. 51 V. c. 21, s. 2 (12, 15).

13. The affidavits and papers upon which the order is obtained shall be filed with the Clerk in Chambers and shall be transmitted by him to the Central Office. 51 V. c. 21, s. 2 (16) part.

Judge's fee for order.

14. For every such order including every duplicate or other part thereof, the Judge shall be entitled for his own use to a fee of \$2; but no other fee or charge of any kind, either to the clerk or otherwise, shall be payable in respect thereof, except that for filing the affidavits and papers the Clerk shall charge the same fees as are chargeable for filing papers in other cases; the fees for filings shall be paid in law stamps. 51 V. c. 21, s. 2 (14), (16 part); 60 V. c. 3, s. 3.

Fee for registration of order.

15. For the registration of such order, including all necessary entries and certificates, the registrar shall be entitled to a fee of \$1, unless the order is indorsed or written upon the deed, in which case no fee shall be payable in respect of the registration thereof. 51 V. c. 21, s. 2 (13).

CHAPTER 166.

An Act respecting Compensation to the Families of Persons killed by Accident, and in Duels.

HER MAJESTY by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. Where the words following occur in this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears: Interpretation.

1. "Parent" shall include father, mother, grandfather, grandmother, stepfather and stepmother; and "Parent."

2. "Child" shall include son, daughter, grandson, granddaughter, stepson and stepdaughter. "Child." R. S. O. 1887, c. 135, s. 1.

2. Where the death of a person has been caused by such wrongful act, neglect or default, as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, in such case the person who would have been liable if death had not ensued, shall be liable to an action for damages, notwithstanding the death of the person injured, and although the death has been caused under such circumstances as amount in law to felony. Action given to recover damage for the death of any person caused by any wrongful act, neglect, or default. R. S. O. 1887, c. 135, s. 2.

3. Every such action shall be for the benefit of the wife, husband, parent and child of the person whose death has been so caused, and shall be brought by and in the name of the executor or administrator of the person deceased, and in every such action the Judge or jury may give such damages as he or they think proportioned to the injury resulting from such death to the parties respectively for whom and for whose benefit such action has been brought; and the amount so recovered, after deducting the costs not recovered from the defendant, shall be divided amongst the before mentioned parties in such shares as the Judge or jury find and direct. For whose benefit and in whose name such action shall be brought. R. S. O. 1887, c. 135, s. 3. Damages.

4. In case the defendant is advised to pay money into Court, it shall be sufficient if he pay it as a compensation in one sum to all persons entitled under this Act for his wrongful act, neglect or default, without specifying the shares into which it is to be divided by the Judge or jury; and Money paid into court may be paid in one sum without regard to its division into shares.

if the said sum be not accepted, and an issue is taken by the plaintiff as to its sufficiency, and the Judge or jury shall think the same sufficient, the defendant shall be entitled to the verdict upon that issue. R. S. O. 1887, c. 135, s. 8.

Action may be brought against principals, seconds and abettors in duels.

5. Where the death of a person has been caused by any wound or injury received in a duel, which wound or injury has been inflicted by the use of any description of fire-arms or other deadly weapon whatsoever, in such case the person inflicting such wound or injury, and all persons present aiding or abetting the parties in such duel as seconds or assistants therein, may be proceeded against under this Act, although no action for damages could have been brought by the person whose death was so caused had death not ensued from the infliction of such wound or injury. R. S. O. 1887, c. 135, s. 4.

One action only to lie for the same cause.
Limitation.

6. Not more than one action shall lie for and in respect of the same subject matter of complaint; and every such action shall be commenced within twelve months after the death of the deceased person. R. S. O. 1887, c. 135, s. 5.

Plaintiff to deliver particulars.

7. In every such action the plaintiff shall, in his statement of claim, set forth or deliver therewith full particulars of the persons for whom and on whose behalf such action is brought. R. S. O. 1887, c. 135, s. 6.

Where no action brought within six months by executors of person killed, then action may be brought by persons beneficially interested.

8. If, and so often as it shall happen at any time or times hereafter in any of the cases intended and provided for by this Act, that there shall be no executor or administrator of the person so deceased, or that there being such executor or administrator, no such action as in this Act mentioned, shall, within six months after the death of such deceased person, have been brought by and in the name of his or her executor or administrator, then and in every such case, such action may be brought by and in the name or names of all or any of the persons (if more than one) for whose benefit such action would have been, if it had been brought by and in the name of such executor or administrator; and every action so to be brought, shall be for the benefit of the same person or persons, and shall be subject to the same regulations and procedure, as nearly as may be, as if it were brought by and in the name of such executor or administrator. R. S. O. 1887, c. 135, s. 7.

Apportionment.

9. In all cases where the compensation is not apportioned as hereinbefore provided, it shall be referred to a Judge to apportion the same among the parties entitled and to provide for the costs thereof as he may think meet. R. S. O. 1887, c. 135, s. 9.

CHAPTER 167.

An Act respecting the Maintenance of Wives
deserted by their Husbands

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Deserted Wives' Maintenance Act*." 51 V. c. 23, s. 1. Short title.

2.—(1) Any married woman, deserted by her husband, may summon him before any Stipendiary or Police Magistrate, or any two of Her Majesty's Justices of the Peace; and thereupon such Magistrate or Justices, if satisfied that the husband, being able wholly or in part to maintain his wife, or his wife and family, has wilfully refused or neglected so to do, and has deserted his wife, may order that the husband shall pay to his wife such weekly sum, not exceeding \$5, as the Magistrate or Justices may consider to be in accordance with his means and with any means the wife may have, for her support and the support of her family. 51 V. c. 23, s. 2. Order by Magistrate for payment of weekly sum.

(2) A married woman shall be deemed to have been deserted within the meaning of this section when she is living apart from her husband because of repeated assaults or other acts of cruelty, or because of his refusal or neglect without sufficient cause to supply her with food and other necessities of life when able so to do. 60 V. c. 14, s. 34. Deserted, meaning of enlarged.

3.—(1) In case of non-payment of any sum so ordered together with the costs, for the space of twenty-one days after the order has been made, or such less time, if any, as the order may provide, and when and so often as the payment so ordered is in arrear, such married woman may procure from the Magistrate or Justices making the said order a summons returnable on the tenth day after the service thereof, and such summons may be served either personally on the husband or in such other manner as the Magistrate or Justices may in writing direct, requiring the husband to attend at the time and place mentioned in the summons, to shew cause why a warrant of distress should not issue for the levying by distress of any of the sums ordered to be paid by him under the preceding section, together with the said costs, and the costs of and incidental to the summons under this section. Distress in case of non-payment.

(2) The person obtaining such summons and all witnesses whom the Magistrate or Justices think requisite may be examined on oath touching the enquiries to be made on the return of such summons.

(3) If the party so summoned does not attend as required by the summons, or allege a sufficient reason for not attending, or does not satisfy the Magistrate or Justices that he is unable to pay the sum ordered to be paid under section 2 of this Act, the said Magistrate or Justices shall issue his or their warrant of distress for the levying of the sum so ordered, together with the costs, and the costs of and incidental to such summons and of the distress. 51 V. c. 23, s. 3.

Power to vary order.

4. The Magistrate or Justices by whom an order for payment was made, or any other Magistrate or Justices sitting in his or their stead at his or their request, shall have power, from time to time, to vary the order on the application of either the husband or wife, upon proof that the means of the husband or wife have been altered in amount since the making of the original order, or any subsequent order varying it. 51 V. c. 23, s. 4.

Order not to be made when wife guilty of adultery.

5. No order for payment of any sum by the husband shall be made in favor of a wife who is proved to have committed adultery, unless the adultery has been condoned; and any order for payment may be discharged by the Magistrate or Justices by whom the order was made, or by the Magistrate or Justices sitting in his or their stead at his or their request, upon proof that the wife has, since the making thereof, been guilty of adultery. 51 V. c. 23, s. 5.

Trial to be private.

6. All cases arising under this Act shall be tried in private at the discretion of the Magistrate or Justices. 51 V. c. 23, s. 6.

Effect of finding as to adultery.

7. In case it is held by the Magistrate or Justices that adultery has been proved, the judgment or finding shall not be evidence of the adultery except for the purpose of proceedings under this Act. 51 V. c. 23, s. 7.

Application for and service of summons.

8. A summons under this Act shall be applied for and granted, and served in the same manner as summonses are now applied for, granted and served in cases of assault, or in such other manner as the Magistrate or Justices shall direct; and the said Magistrate or Justices, or other Magistrate or Justices sitting in his or their stead, may rehear the summons, at the instance of the husband, at any time, and confirm, discharge or vary any previous order thereon as he or they may think just. 51 V. c. 23, s. 8.

Rehearing.

Signing summons.

9. Where any matter under this Act is to be tried by two Justices, the summons may be signed by one of such Justices. 51 V. c. 23, s. 9.

10. The forms of order, summons and warrant to be issued ^{Forms.} in pursuance of this Act may be the same or to the like effect as those contained in the Schedules hereto. 51 V. c. 23, s. 10.

11. The husband or wife may appeal from any order or ^{Appeal.} decision of the Magistrate or Justices to the Judge of the Division Court without a jury, the appeal to be heard at such time and place as he appoints, and the practice as to such appeals and the powers of the Judge shall in other respects be the same, as nearly as may be, as by *The Act respecting* ^{Rev. Stat. c. 167.} *Master and Servant* are provided for the appeals therein mentioned, save that no bond shall be required, and that proceedings on the order appealed from shall not be stayed pending the appeal, and that where the husband is the appellant he shall pay all costs. 51 V. c. 23, s. 11.

SCHEDULE A.

FORM OF SUMMONS.

(Section 2.)

Ontario
County of
(or City or District) } To A. B., of
(Occupation)

Whereas application has this day been made by your wife, C. B., to the undersigned Police Magistrate (or Stipendiary Magistrate or Justices of the Peace *as the case may be*) for the County of for a summons under *The Deserted Wives' Maintenance Act*, for that you have wilfully refused or neglected to maintain your said wife (or your wife and family *as the case may be*), and have deserted your said wife. These are, therefore, to command you in Her Majesty's name to be and appear before the undersigned, or such Magistrate or Justices as may then and there be present in my (or our) stead, at on the day after the service hereof, at the hour of in the noon, to shew cause why an order should not be made against you, ordering you to pay to your said wife, C. B. for her support (or for the support of her and her family, *as the case may be*) such weekly sum not exceeding \$5, as the undersigned or such other Magistrate or Justices as may then be present in my (or our) stead, may consider to be in accordance with your means and with the means of your said wife.

Given under hand and seal day of
in the year 18 , at in the County (or District or City, *as the case may be*) aforesaid.

J. S. [L. S.]

SCHEDULE B.

FORM OF ORDER.

(Section 2.)

Ontario
County of
(or City or District) }

Upon reading the Summons dated the day of
A. D. 18 , and issued by Police Magistrate for the
(or Stipendiary Magistrate or Justices of the Peace for the) upon
the application of C. B., of wife of A. B., of
 (occupation) under the provisions of *The Deserted Wives'*
Maintenance Act, and upon hearing all the parties (or as the case may be)
and the evidence adduced, and it appearing that the said C. B. is
entitled to the benefit of said Act; I (or we) the undersigned, do hereby
order that the said A. B. do pay hereafter to his said wife, C. B., or her
lawfully authorized agent in writing, at the
sum of \$ per week for her support (or for the support of her and
her family), the first weekly payment to be made on the day of
A. D. 18 , together with the costs of these proceedings,
which amount to \$

Given under hand and seal this day of
in the year A. D. 18 , at in the County (or District or City,
as the case may be) aforesaid.

J. S. [L.S.]

51 V. c. 23, Sched. B.

SCHEDULE C.

FORM OF SUMMONS AFTER DEFAULT.

(Section 3, subsec. 1.)

Ontario
County of
(or City or District) }

To A. B., of
(Occupation)

Whereas under and by virtue of the provisions of *The Deserted Wives'*
Maintenance Act, by order dated the day
of A. D. 18 , and made by Police
Magistrate for (or Stipendiary Magistrate or two of Her Majesty's
Justices of the Peace for) you were ordered to pay to your
wife C. B. the sum of \$ per week, together with costs of obtaining
the order in that behalf, amounting to \$; and whereas it is alleged
by the said C. B. that you have made default in payment of said sum and
costs, and that there is now due and owing, by virtue of said order, the
sum of \$, You are therefore hereby summoned to appear before
me (or us) or such other Police (or Stipendiary Magistrate or Justices of
the Peace for), acting in my (or our) stead as may then and there
be present at at the hour of o'clock in the noon, on
the tenth day after service hereof, to show cause why a warrant of distress
should not issue for the levying by distress and sale of your goods and

chattels of such weekly sum so remaining unpaid, together with the said costs and the costs of and incidental to these proceedings.

Given under hand and seal this day of
A. D. 18 , at in the County (or City or District, as the case
may be) aforesaid.

J. S. [L.S.]
51 V. c. 23, Sched. C.

SCHEDULE D.

FORM OF WARRANT OF DISTRESS.

(Section 3, subsec. 3.)

To *E. F.*, one of the Constables of the County of (or as the case may be).

Ontario
County of }
(or City or District) }

Whereas on a summons was issued by the undersigned Police Magistrate (or Stipendiary or two of Her Majesty's Justices of the Peace) for for that (*stating the facts, with the time and place*) and whereas this day, to wit, on (*as the case may be*) at the parties aforesaid appeared before the undersigned Police Magistrate for (or Stipendiary Magistrate or Justices of the Peace as the case may be) (or, the said *C. B.* appeared before the undersigned, but the said *A. B.*, although duly called, did not appear by himself, his counsel or agent) and whereas it was satisfactorily proved to me (or us) on oath that the said *A. B.* was duly served with the said summons in this behalf, which required him to be and appear at the said time and place before me or such other Justices of the Peace for the County of as should be there, in my (or our) stead, to show cause why a warrant of distress should not issue against him in respect of his default in payment of certain sums and costs remaining unpaid as aforesaid.

And whereas having heard the matter of the said summons I (or we) did adjudge the said *A. B.* should pay to the said *C. B.* the sum of \$ forthwith and also should pay to the said *C. B.* the sum of \$ for her costs in that behalf, and I (or we) did further adjudge and order that if the said several sums were not paid forthwith, that the same should be levied by distress and sale of the goods and chattels of the said *A. B.*; and whereas the said sums have not been paid;

These are therefore to command you forthwith to make distress of the goods and chattels of the said *A. B.*, and if within the space of (*three*) days after the making of such distress the said sum of \$ and \$, being the costs of the proceedings upon the said summons, together with the reasonable charges of taking and keeping the said distress, are not paid, then to sell the said goods and chattels so by you distrained and to pay the money arising from such sale to me that I may apply the same in satisfaction of the said claim of the said *C. B.* (or as the case may be) and may render the surplus, if any, on demand to the said *A. B.*

Given under hand and seal this day of
A. D., 18 , at in the County (or City or District, as the case
may be) aforesaid.

J. S. [L.S.]
51 V. c. 23, Sched. D.; 60 V. c. 3, s. 3.

2. *PARENT AND CHILD.*

CHAPTER 168.

An Act respecting Infants.

CUSTODY OF INFANTS, ss. 1, 2.
 INFANT'S REAL ESTATE, ss. 3-10.
 GUARDIANS, ss. 11-19.

Appointment, ss. 11-15.
 Direction by Court, s. 16.
 Removal, s. 17.
 Authority, s. 19.

WHAT COURT OR JUDGE HAS JURIS-
 DICTION UNDER CERTAIN SEC-
 TIONS, s. 18.

POWER OF SURROGATE COURTS IN MAT-
 TERS OF GUARDIANSHIP, ss. 20,
 21.

COMPULSORY ATTENDANCE OF WIT-
 NESSES, s. 22.

FATHER'S AUTHORITY IN RESPECT OF
 RELIGIOUS FAITH OF CHILD,
 s. 23.

HER MAJESTY, by and with the advice and consent of the
 Legislative Assembly of the Province of Ontario, enacts
 as follows:—

CUSTODY OF INFANTS.

Court may
 make order as
 to custody of
 and right of
 access to
 infants.

1.—(1) The High Court or Surrogate Court, or any Judge of either Court, may, upon the application of the mother of an infant (who may so apply without next friend) make such order as the Court or Judge sees fit regarding the custody of the infant, and the right of access thereto of either parent, having regard to the welfare of the infant, and to the conduct of the parents, and to the wishes as well of the mother as of the father, and may afterwards alter, vary or discharge the order on the application of either parent, or, after the death of either parent, of any guardian under this Act, and in every case may make such order respecting the costs of the mother and the liability of the father for the same, or otherwise as to costs as the Court or Judge may think just.

Order as to
 maintenance.

(2) The Court or Judge may also make order for the maintenance of the infant by payment by the father thereof, or by payment out of any estate to which the infant is entitled, of such sum or sums of money from time to time as according to the pecuniary circumstances of the father or the value of the estate the Court or Judge thinks just and reasonable. R. S. O. 1887. c. 137, s. 1.

2. No order directing that the mother shall have the custody of or access to an infant shall be made by virtue of this Act, in favour of a mother against whom adultery has been established by judgment in an action for criminal conversation at the suit of her husband against any person. R. S. O. 1887, c. 137, s. 2.

Order not to be made in favour of mother guilty of adultery.

INFANT'S REAL ESTATE.

3.—(1) Where an infant is seised or possessed of or entitled to any real estate in fee or for a term of years, or otherwise howsoever, in Ontario, and the High Court is of opinion that a sale, lease or other disposition of the same, or of a part thereof, is necessary or proper for the maintenance or education of the infant, or that, by reason of any part of the property being exposed to waste and dilapidation, or to depreciation from any other cause, his interest requires or will be substantially promoted by such disposition, the Court may order the sale, or the letting for a term of years, or other disposition of such real estate, or any part thereof, to be made under the direction of the Court or one of its officers, or by the guardian of the infant, or by a person appointed by the Court for the purpose, in such manner and with such restrictions as to the Court may seem expedient, and may order the infant to convey the estate as the Court thinks proper.

A sale or disposition of estate of infants may be authorized.

(2) But no sale, lease, or other disposition shall be made against the provisions of a will or conveyance by which the estate has been devised or granted to the infant or for his use. R. S. O. 1887, c. 137, s. 3.

No sale contrary to a devise, &c.

4. The application shall be in the name of the infant by his next friend, or by his guardian: but shall not be made without the consent of the infant if he is of the age of fourteen years or upwards unless the Court otherwise directs or allows. R. S. O. 1887, c. 137, s. 4; 60 V. c. 3, s. 3.

The application is made by next friend or guardian.

5. Where the Court deems it convenient that a conveyance should be executed by some person in the place of an infant, the Court may direct some other person in the place of the infant to convey the estate. R. S. O. 1887, c. 137, s. 5.

When a substitute may be appointed to convey.

6. Every such conveyance, whether executed by the infant or some person appointed to execute the same in his place, shall be as effectual as if the infant had executed the same, and had been of the age of twenty-one years at the time. R. S. O. 1887, c. 137, s. 6.

Deeds executed in behalf of infants to be valid.

7. The moneys arising from such sale, lease, or other disposition shall be laid out, applied and disposed of in such manner as the Court directs. R. S. O. 1887, c. 137, s. 7.

Trusts for the proceeds.

Quality of surplus moneys upon sale of real estate.

8. On any sale or other disposition so made, the money raised, or the surplus thereof, shall be of the same nature and character as the estate sold or disposed of; and the heirs, next of kin, or other representatives of the infant, shall have the like interest in any surplus which may remain of the money at the decease of the infant, as they would have had in the estate sold or disposed of, if no sale or other disposition had been made thereof. R. S. O. 1887, c. 137, s. 8.

In cases of dower a composition may be made.

9. If any real estate of an infant is subject to dower, and the person entitled to dower consents in writing to accept in lieu of dower any gross sum which the Court thinks reasonable, or the permanent investment of a reasonable sum in such manner that the interest thereof be made payable to the person entitled to dower during her life, the Court or Judge may direct the payment of such sum in gross, out of the purchase money to the person entitled to dower, as may be deemed upon the principles applicable to life annuities a reasonable satisfaction for such estate; or may direct the payment to the person entitled to dower of an annual sum, or of the income or interest to be derived from the purchase money, or any part thereof, as may seem just, and for that purpose may make such order for the investment or other disposition of the purchase money, or any part thereof, as may be necessary. R. S. O. 1887, c. 137, s. 9.

Order for maintenance where estate settled for life with power of appointment in favour of children of life tenant.

10.—(1) Where by a will or other instrument property is given beneficially to any person for his life with a power of devising or appointing the same by will in favour of his children, or in favour of one or more of his children, the High Court may on the application, or with the consent, of the said tenant for life, order that such portion of the proceeds of the said property, as it may consider proper shall be applied towards the maintenance or education of any infant child in whose favour the said power might be exercised, notwithstanding there is a gift over in the event of there being no children to take under the said power, or notwithstanding there is a right conferred upon the said tenant for life or upon some other person in the said event to make a disposition of the said property in favour of some person or persons other than the said children. 57 V. c. 21, s. 1.

Application of section.

(2) This section shall extend to property coming within its terms where the will or other instrument under which it is held has gone into operation or has been executed before the passing hereof. 57 V. c. 21, s. 2.

APPOINTMENT OF GUARDIANS.

Right to appoint guardians.

11. The Surrogate Court for the county within which an infant resides may appoint the father of the infant to be guardian; or may with the consent of the father appoint

some other suitable person or persons; but if the infant is of the age of fourteen years or over, neither of such appointments shall be made without the consent of the infant; or, if the infant has no father living or any legal guardian authorized by law to take the care of his person and the charge of his estate, the said Court may appoint a guardian or guardians of the infant; and letters of guardianship granted by a Surrogate Court shall have force and effect in all parts of Ontario; and an official certificate of the grant may be obtained as in the case of letters of administration; and a return of every appointment and removal of a guardian shall be made by registrars respectively to the Surrogate Clerk in like manner as is required by *The Surrogate Courts Act* in the case of grants of probate or administration; but this section shall not be construed as depriving the High Court of jurisdiction in such matters. R. S. O. 1887, c. 137, s. 10.

Rev. Stat. c. 59.

12. Upon the written application of the infant, or the friend or friends of the infant, residing within the jurisdiction of the Surrogate Court to which application is made, and after proof of twenty days' public notice of the application, in some newspaper published within the county or district of the Surrogate Court to which the application is made, the Judge of the Court may appoint some suitable and discreet person or persons to be guardian or guardians of the infant. R. S. O. 1887, c. 137, s. 11; 55 V. c. 29, s. 1.

When Judges of Surrogate Courts may appoint guardians.

13. Subject to the provisions of *The Act respecting the Acceptance of Certain Incorporated Companies as Securities*, the Judge shall take from every guardian appointed under sections 11 and 12, a bond in the name of the infant, in such penal sum and with such securities as the Judge directs and approves, having regard to the circumstances of the case, and such bond shall be conditioned that the said guardian will faithfully perform the said trust, and that he, or his executors or administrators, will, when the said ward becomes of the full age of twenty-one years, or whenever the said guardianship is determined, or sooner if thereto required by the said Surrogate Court, render to his ward, or to his executors or administrators, a true and just account of all goods, moneys, interest, rents, profits or other estate of the ward, which shall have come into the hands of the guardian, and will thereupon without delay deliver and pay over to the said ward, or to his executors or administrators, the estate or the sum or balance of money which may be in the hands of the said guardian belonging to the ward, deducting therefrom and retaining a reasonable sum for the expenses and charges of the guardian, and the bond shall be recorded by the registrar of the Court in the books of his office. R. S. O. 1887, c. 137, s. 12.

Such guardian to give security by bond.

Rev. Stat. c. 220.

Condition of bond.

Bond to be recorded.

14.—(1) On the death of the father of an infant, the mother, or if she is dead, the father, or if surviving, shall be the guardian of the infant, either alone

father, mother

to be guardian
alone, or joint-
ly with others.

when no guardian has been appointed by the father, or jointly with any guardian appointed by the father.

(2) Where no guardian has been appointed by the father, or if the guardian or guardians appointed by the father is or are dead, or refuses or refuse to act, the High Court or Surrogate Court, or any Judge of either Court, may from time to time appoint a guardian or guardians to act jointly with the mother, as such Court or Judge shall see fit. R. S. O. 1887, c. 137, s. 13.

Mother may
appoint guar-
dian in certain
cases.

15.—(1) The mother of an infant may, by deed or will, appoint any person or persons to be guardian or guardians of the infant after the death of herself and the father of the infant (if the infant be then unmarried), and where guardians are appointed by both parents they shall act jointly.

(2) The mother of an infant may, by deed or will, provisionally nominate some fit person or persons to act as guardian or guardians of the infant after her death jointly with the father of the infant, and the Court or a Judge after her death, if it be shewn to the satisfaction of the Court or a Judge that the father is for any reason unfitted to be the sole guardian of his children, may confirm the appointment of such guardian or guardians, who shall thereupon be empowered to act as aforesaid, or make such other order in respect of the guardianship as the Court or Judge shall think right. R. S. O. 1887, c. 137, s. 14.

Direction by
Court on
matters affect-
ing infant.

16. In the event of guardians being unable to agree among themselves or with the father upon a question affecting the welfare of an infant, any of them or the father may apply to the Court for its direction, and the Court, or Judge, may make such orders regarding the matter in difference as to the Court or Judge seems proper. R. S. O. 1887, c. 137, s. 15.

Removal of
guardians.

17. Testamentary guardians and trustees, and guardians appointed or constituted by virtue of this Act shall be removable by the Court or Judge, for the same causes as other guardians and trustees. R. S. O. 1887, c. 137, s. 16.

What
Surrogate
Court or
Judge to act.

18. The Surrogate Court or Judge referred to in sections 1, 14, 15, 16 and 17, is the Surrogate Court or Judge of the county where the infant or respondents, or any of them, reside. R. S. O. 1887, c. 137, s. 17.

Authority of Guardians.

Guardian's
authority.

19. Unless where the authority of a guardian appointed or constituted under sections 14 or 15 is otherwise limited, the guardian of any infant appointed or constituted under or by virtue of this Act during the continuance of his guardianship,

To act for
ward.

1. Shall have authority to act for and on behalf of the said ward;

To appear in
actions.

2. May appear in any Court and prosecute or defend any action in his or her name;

3. Shall have the charge and management of his or her estate, real and personal, and the care of his or her person and education; To manage real and personal estate, etc.
4. And in case the infant is under the age of fourteen years, may, with the approbation of two of Her Majesty's Justices of the Peace and the consent of the ward (or in case the infant is not under the age of fourteen years, then with the consent of the ward only), place and bind him or her an apprentice to any lawful trade, profession or employment; the apprenticeship, in case of males, not extending beyond the age of twenty-one years, and in case of females, not beyond the age of eighteen years, or the marriage of the ward within that age. To bind ward an apprentice. R. S. O. 1887, c. 137, s. 18. Limitation of apprenticeship.

POWERS AND PRACTICE OF SURROGATE COURTS.

20. In all matters and applications touching or relating to the appointment, control or removal of guardians, and the security to be given, the custody, control of or right of access to an infant, and otherwise, the several Surrogate Courts shall have the like powers, jurisdiction and authority for the examination of witnesses, the production of deeds and writings, and generally for the enforcing of all orders and judgments made or given as are given to them by *The Surrogate Courts' Act* in matters testamentary; and all orders and judgments may be appealed from to a Divisional Court of the High Court of Justice in the manner provided in the said Act in respect of appeals in matters testamentary. in matters of guardianship, Courts to have some powers for examination of witnesses and enforcing deeds, etc., as in testamentary matters. R. S. O. 1887, c. 137, s. 19; 58 V. c. 13, s. 46. Rev. Stat. c. 59.

21. The practice and procedure shall, except where otherwise provided for by Rules under *The Surrogate Courts' Act*, conform, as nearly as the circumstances of the case will admit, to the practice and procedure prescribed by the said Act, and all the powers given by the several sections of that Act, to the Judges mentioned in sections 86 and 88 of the said Act, may from time to time be exercised by them, for the purpose of simplifying and expediting the proceedings, and for fixing and regulating the fees to be taken by officers and by solicitors and counsel respectively for business and proceedings done and taken under this Act in the several Surrogate Courts. Procedure under this Act. R. S. O. 1887, c. 137, s. 20. Rev. Stat. c. 59.

22. The attendance of any person to testify on oath respecting any matter in any proceeding under this Act may be enforced by order made for that purpose, and on the service of a copy thereof and the payment of expenses as a witness, in the same manner as in an action, or affidavits respecting such matter may be received. Court or Judge may make the attendance of witnesses. R. S. O. 1887, c. 137, s. 21.

23. Nothing herein contained shall be construed to change the law as to the authority of the father in respect of the religious faith in which his child is to be educated. Religious education. R. S. O. 1887, c. 137, s. 22.

CHAPTER 169.

An Act respecting the Support of Illegitimate Children.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

The father of an illegitimate child liable for necessities.

1. Any person who furnishes food, clothing, lodging or other necessities, to any child born out of lawful wedlock, may maintain an action for the value thereof against the father of the child, if the child was a minor at the time the necessities were furnished, and was not then residing with his or her reputed father and maintained by him as a member of his family. R. S. O. 1887, c. 138, s. 1.

When other testimony than that of the mother requisite.

2. Where the person suing for the value of the necessities is the mother of the child, or a person to whom the mother has become accountable for the necessities, the fact of the defendant being the father shall be proved by other testimony than that of the mother. R. S. O. 1887, c. 138, s. 2.

No action maintainable unless the mother makes affidavit before the birth of the child or within six months after.

3. No action shall be sustained under the preceding two sections, unless it is shewn upon the trial thereof, that while the mother of the child was pregnant, or within six months after the birth of her child, she did voluntarily make an affidavit in writing, before some one of Her Majesty's Justices of the Peace for the county or city in which she then resided, declaring that the person afterwards charged in the action is really the father of the child, nor unless she deposited the affidavit, within the time aforesaid, in the office of the Clerk of the Peace of the county, or the clerk of the council of the city, as the case may be. R. S. O. 1887, c. 138, s. 3.

Such affidavit not to be evidence.

4. The affidavit shall not be evidence of the fact of the defendant being the father of the child. R. S. O. 1887, c. 138, s. 4.

Other remedies not to be affected.

5. This Act shall not take away or abridge any right of action or remedy which, without this Act, might have been maintained against the father of an illegitimate child. R. S. O. 1887, c. 138, s. 5.

3. LANDLORD AND TENANT.

CHAPTER 170.

An Act respecting the Law of Landlord and Tenant.

SHORT TITLE, s. .	TENANT TO NOTIFY LANDLORD OF ACTION FOR RECOVERY OF LAND, s. 19.
INTERPRETATION, s. 2.	
RELATION OF LANDLORD AND TENANT, s. 3.	RECOVERY OF PREMISES BY LANDLORDS :
APPORTIONMENT OF RENTS AND CERTAIN OTHER PERIODICAL PAYMENTS, ss. 4-8.	When half year's rent in arrear, ss. 20-25.
APPORTIONMENT OF CONDITION OF RE-ENTRY, s. 9.	When lease is determined and tenant refuses to quit, ss. 26-29.
MERGER OF REVERSION EXPECTANT ON A LEASE, s. 10.	EXEMPTIONS FROM DISTRESS :
RIGHT OF RE-ENTRY, s. 11.	Goods exempt from execution exempt from distress for rent, s. 30.
ASSIGNMENTS BY PERSONS UNDER DISABILITY, s. 12.	Goods not the property of tenant exempt, s. 31.
RESTRICTIONS ON AND RELIEF AGAINST FORFEITURE OF LEASES, s. 13.	Surrender of premises when exemption claimed, s. 32.
RESTRICTION ON EFFECT OF LICENSE UNDER A LEASE, s. 14.	SET OFF AGAINST RENT, s. 33.
RESTRICTED OPERATION OF PARTIAL LICENSE, s. 15.	WHERE ASSIGNMENT FOR BENEFIT OF CREDITORS, s. 34
WAIVER OF COVENANT, s. 16.	RE-ENTRY OF LANDLORD, s. 35.
COVENANT TO PAY TAXES, s. 17.	SALE OF CROPS, ss. 36-37.
NOTICES TO QUIT, s. 18.	APPLICATION OF SECTIONS 30 to 33, s. 38.
	PROTECTION OF GOODS OF LODGERS FROM DISTRESS, ss. 39-42.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1 This Act may be cited as "*The Landlord and Tenant's Short Title Act.*"

INTERPRETATION.

2. Where the words following occur in sections 4, 5, 6, 7 Interpretation and 8 of this Act, they shall be construed in the manner hereinafter mentioned, unless a contrary intention appears :

- “Rents.” 1. “Rents” shall include rent-service, rent-charge and rent-seck, and all periodical payments or renderings in lieu of or in the nature of rent ;
- “Annuities.” 2. “Annuities” shall include salaries and pensions ; and
- “Dividends.” 3. “Dividends” shall include (besides dividends, strictly so called) all payments made by the name of dividend, bonus or otherwise out of the revenues of trading or other public companies, divisible between all or any of the members of such respective companies, whether such payments are usually made or declared at any fixed times or otherwise ; and all such divisible revenue shall, for the purposes of this Act, be deemed to have accrued by equal daily increment, during and within the period for or in respect of which the payment of the same revenue is declared or expressed to be made ; but the said word “dividend” shall not include payments in the nature of a return or reimbursement of capital. R. S. O. 1887, c. 143, s. 1.

Imp. Act
33-34 V. c.
35, s. 5.

RELATION OF LANDLORD AND TENANT.

- Reversion or remainder not necessary to create relation of landlord and tenant. 3. The relation of landlord and tenant did not since the 15th day of April, 1895, and shall not hereafter depend on tenure, and a reversion or remainder in the lessor shall not be necessary in order to create the relation of landlord and tenant, or to make applicable the incidents by law belonging to that relation ; nor shall any agreement between the parties be necessary to give a landlord the right of distress. 59 V. c. 42, s. 3.

APPORTIONMENT OF RENT AND OTHER PERIODICAL PAYMENTS.

- Rents, etc., to accrue from day to day, and be apportionable in respect of time. 4. All rents, annuities, dividends, and other periodical payments in the nature of income (whether reserved or made payable under an instrument in writing or otherwise), shall like interest on money lent, be considered as accruing from day to day, and shall be apportionable in respect of time accordingly. R. S. O. 1887, c. 143, s. 2.
- Apportioned part of rent, etc., to be payable when the next entire portion becomes due. 5. The apportioned part of such rent, annuity, dividend or other payment shall be payable or recoverable in the case of a continuing rent, annuity or other such payment when the entire portion, of which such apportioned part forms part, becomes due and payable, and not before ; and in the case of a rent, annuity or other such payment determined by re-entry, death or otherwise, when the next entire portion of the same would have been payable if the same had not so determined, and not before. R. S. O. 1887, c. 143, s. 3.

Imp. Act
33-34 V. c.
35, s. 2.

Imp. Act
33-34 V. c.
35, s. 3.

6.—(1) All persons and their respective heirs, executors, administrators and assigns, and also the executors, administrators and assigns, respectively, of persons whose interests determine with their own deaths, shall have such or the same remedies for recovering such apportioned parts as aforesaid, when payable (allowing proportionate parts of all just allowances) as they respectively would have had for recovering such entire portions as aforesaid, if entitled thereto respectively.

Persons shall have the same remedies for recovering apportioned parts as for entire portion.

Imp. Act 33-34 V. c. 35, s. 4.

(2) Provided that persons liable to pay rents reserved out of or charged on lands or other hereditaments of any tenure, and the same lands or other hereditaments shall not be resorted to for any such apportioned part forming part of an entire or continuing rent as aforesaid specifically, but the entire or continuing rent, including such apportioned part, shall be recovered and received by the heir or other person, who, if the rent had not been apportionable under this Act, or otherwise, would have been entitled to such entire or continuing rent, and such apportioned part shall be recoverable by action from such heir or other person by the executors or other persons entitled under this Act to the same. R. S. O. 1887, c. 143, s. 4.

Proviso as to rents reserved in certain cases.

7. Nothing in the preceding provisions of this Act contained shall render apportionable any annual sums made payable in policies of assurance of any description. R. S. O. 1887, c. 143, s. 5.

Act not to apply to policies of assurance, Imp. Act 33-34 V. c. 35, s. 6.

8. The preceding provisions of this Act shall not extend to any case in which it is expressly stipulated that no apportionment shall take place. R. S. O. 1887, c. 143, s. 6.

Nor where stipulation made to the contrary, 33-34 V. c. 35, s. 7.

APPORTIONMENT OF CONDITION OF RE-ENTRY.

9. Where the reversion upon a lease is severed and the rent or other reservation is legally apportioned, the assignee of each part of the reversion shall, in respect of the apportioned rent or other reservation allotted or belonging to him, have and be entitled to the benefit of all conditions or powers of re-entry for non-payment of the original rent or other reservation, in like manner as if such conditions or powers had been reserved to him as incident to his part of the reversion in respect of the apportioned rent or other reservation allotted or belonging to him. R. S. O. 1887, c. 143, s. 7.

Apportionment of condition of re-entry in certain cases.

Imp. Act 23 V. c. 35, s. 3.

MERGER, ETC., OF REVERSIONS.

10. Where the reversion expectant on a lease of land merges or is surrendered, the estate which, for the time being, confers, as against the tenant under the same lease, the next vested right to the same land, shall, to the extent of and for preserving such incidents to and obligations on the same reversion as but for the surrender or merger thereof would have subsisted, be deemed the reversion expectant on the same lease. R. S. O. 1887, c. 143, s. 8.

Effect of surrender or reversion expectant on a lease in certain cases.

See Imp. Act 8 & 9 V. c. 106, s. 9.

RIGHT OF RE-ENTRY.

Right of
entry.

11. In every demise made or entered into after the 25th day of March, 1886, whether by parol or in writing, unless it shall be otherwise agreed, there shall be deemed to be included an agreement that if the rent reserved, or any part thereof, shall remain unpaid for fifteen days after any of the days on which the same ought to have been paid, although no formal demand thereof shall have been made, it shall be lawful for the landlord, at any time thereafter into and upon the demised premises, or any part thereof in the name of the whole, to re-enter and the same to have again, repossess, and enjoy as of his former estate. R. S. O. 1887, c. 143, s. 9.

ASSIGNMENTS BY PERSONS UNDER DISABILITY.

Assignments
by persons
under dis-
ability.

12. Where any person being under the age of twenty-one years, or a lunatic, or a person of unsound mind, shall be seised of the reversion of land subject to a lease, and such lease shall contain a covenant not to assign or sublet without leave, the guardian of such infant or the committee of such lunatic, or person of unsound mind may, with the approbation of the Judge of the Surrogate Court of the county in which the land is situate, consent to any assignment or transfer of such leasehold interest, in the same manner and with the like effect as if the consent were given by a lessor under no disability. R. S. O. 1887, c. 143, s. 10.

FORFEITURE OF LEASES.

Restrictions
on and relief
against forfeit-
ure of leases.
Imp. Act, 44-
45 V. c. 41,
s. 14.

13.—(1) A right of re-entry or forfeiture under any proviso or stipulation in a lease, for a breach of any covenant or condition in the lease, shall not be enforceable, by action or otherwise, unless and until the lessor serves on the lessee a notice specifying the particular breach complained of, and if the breach is capable of remedy, requiring the lessee to remedy the breach, and, in any case, requiring the lessee to make compensation in money for the breach, and the lessee fails, within a reasonable time thereafter, to remedy the breach, if it is capable of remedy, and to make reasonable compensation in money, to the satisfaction of the lessor for the breach.

(2) Where a lessor is proceeding by action or otherwise, to enforce such a right of re-entry or forfeiture, the lessee may, in the lessor's action, if any, or in any action brought by himself, apply to the Court for relief; and the Court may grant or refuse relief, as the Court, having regard to the proceedings and conduct of the parties under the foregoing provisions of this section and to all the other circumstances, thinks fit; and in case of relief may grant it on such terms, if any, as to costs, expenses, damages, compensation, penalty, or otherwise, including the granting of an injunction to restrain any like breach in the future, as the Court in the circumstances of each case thinks fit.

(3) For the purposes of this section, a lease includes an original or derivative under-lease, also a grant at a fee farm rent, or securing a rent by condition; and a lessee includes an original or derivative under-lessee, and the heirs, executors, administrators, and assigns of a lessee, also a grantee under such a grant as aforesaid, his heirs and assigns; and a lessor includes an original or derivative under-lessor, and the heirs, executors, administrators, and assigns of a lessor, also a grantor as aforesaid, and his heirs and assigns.

Meaning of in this section.
"Lease"
"Lessee"
"Lessor."

(4) This section applies, although the proviso or stipulation under which the right of re-entry or forfeiture accrues is inserted in the lease, in pursuance of the directions of any Act of Parliament or of the Legislature of this Province.

Where right of entry is under a statute.

(5) For the purposes of this section, a lease limited to continue as long only as the lessee abstains from committing a breach of covenant shall be and take effect as a lease to continue for any longer term for which it could subsist, but determinable by a proviso for re-entry on such a breach. R.S.O. 1887. c. 143, s. 11 (1-5.)

Lease until breach.

(6) This section shall not extend—

Limitation of section.

(a) To a covenant or condition, against the assigning, under-letting, parting with the possession, or disposing of the land leased; or to a condition for forfeiture on the bankruptcy of the lessee, or on the taking in execution of the lessee's interest; or

(b) To a mining lease.

A "mining lease" is a lease for mining purposes, that is, the searching for, working, getting, making merchantable, carrying away, or disposing of mines and minerals, or purposes connected therewith, and includes a grant or license for mining purposes. R.S.O. 1887, c. 143, s. 11 (6); 60 V. c. 15, Sched. A (28).

(7) This section shall not affect the law relating to re-entry or forfeiture or relief in cases of non-payment of rent.

(8) This section shall apply to leases made either before or after the enactment thereof, and shall have effect notwithstanding any stipulation to the contrary. R. S. O. 1887, c. 143, s. 11 (7, 8).

Application of section.

LICENSES.

14. Where a license to do any act which, without such license, would create a forfeiture, or give a right to re-enter, under a condition or power reserved in a lease heretofore granted, or to be hereafter granted, has been, at any time since the 18th day of September, 1865, given to a lessee or his assigns, every such license shall, unless otherwise expressed, extend only to the permission actually

Restriction on effect of license under power contained in lease, etc.
Imp. Act 22-25 V. c. 35, s. 1.

given, or to any specific breach of any proviso or covenant made or to be made, or to the actual assignment, under-lease or other matter thereby specifically authorized to be done, but not so as to prevent a proceeding for any subsequent breach (unless otherwise specified in such license); and all rights under covenants and powers of forfeiture and re-entry in the lease contained shall remain in full force and virtue, and shall be available as against any subsequent breach of covenant or condition, assignment, under-lease, or other matter not specifically authorized or made punishable by such license, in the same manner as if no such license had been given; and the condition or right of re-entry shall be and remain in all respects as if such license had not been given, except in respect of the particular matter authorized to be done. R. S. O. 1887, c. 143, s. 12.

Restricted
operation of
partial
licenses.
Imp. Act 22-
23 V. c. 35,
s. 2.

15. Where in a lease heretofore granted or to be hereinafter granted, there is a power or condition of re-entry on assigning or underletting or doing any other specified act without license, and at any time since the 18th day of September, 1865, a license has been or is given to one of several lessees or co-owners to assign or underlet his share or interest, or to do any other act prohibited to be done without license, or has been or is given to a lessee or owner, or any one of several lessees or owners, to assign or underlet part only of the property, or to do any other such act as aforesaid in respect of part only of such property, such license shall not operate to destroy or extinguish the right of re-entry in case of any breach of the covenant or condition by the co-lessee or co-lessees or owner or owners of the other shares or interests in the property, or by the lessee or owner of the rest of the property (as the case may be), over or in respect of such shares or interests or remaining property, but such right of re-entry shall remain in full force over or in respect of the shares or interests or property not the subject of such license. R. S. O. 1887, c. 143, s. 13.

WAIVER OF COVENANT.

Waiver not to
extend further
than to the
particular
instance
mentioned.

16. Where an actual waiver of the benefit of a covenant or condition in a lease, on the part of a lessor, or his heirs, executors, administrators or assigns, is proved to have taken place after the 18th day September, 1865, in any one particular instance, such actual waiver shall not be assumed or deemed to extend to any instance or any breach of covenant or condition other than that to which such waiver specially relates, nor to be a general waiver of the benefit of any such covenant or condition, unless an intention to that effect appears. R. S. O. 1887, c. 143, s. 14.

COVENANT TO PAY TAXES.

Covenant to
pay taxes not
include local
improvement

17. In the case of leases made on or after the 1st day of September, 1897, unless it is therein otherwise specifically

provided a covenant by a lessee for payment of taxes shall not be deemed to include an obligation to pay taxes assessed for local improvements. 60 V. c. 14, s. 28 (1), part.

LENGTH OF NOTICES TO QUIT.

18. In the case of tenancies from week to week and from month to month, a week's notice to quit and a month's notice to quit, respectively, ending with the week or the month, as the case may be, shall be deemed sufficient notice to determine, respectively, a weekly or monthly tenancy. R. S. O. 1887, c. 143, s. 15.

Notice to quit in case of weekly or monthly tenancies.

TENANTS TO NOTIFY LANDLORDS.

19. Every tenant to whom a writ in an action for the recovery of land has been delivered, or to whose knowledge it comes, shall forthwith give notice thereof to his landlord, or to his bailiff or receiver, and if he omits so to do, he shall forfeit to the person of whom he holds, the value of three years' improved or rack rent of the premises demised or holden in the possession of such tenant, to be recovered by action in any Court having jurisdiction for the amount. R. S. O. 1887, c. 143, s. 16.

Penalty on tenant receiving writ for recovery of land and not notifying his landlord.

RECOVERY OF PREMISES BY LANDLORDS.

Where a half-year's rent in arrear.

20. In all cases between landlord and tenant, as often as it happens that one-half year's rent is in arrear, and the landlord or lessor to whom the same is due has the right by law to re-enter for non-payment thereof, such landlord or lessor may, without any formal demand or re-entry, serve a writ for the recovery of the demised premises; or in case the same cannot be legally served, or no tenant is in actual possession of the premises, then the landlord or lessor may affix a copy thereof upon the door of any demised messuage, or in case the action is not for the recovery of any messuage, then upon some notorious place of the lands, tenements or hereditaments comprised in the writ; and such affixing shall be good service thereof, and shall stand instead of a demand and re-entry. R. S. O. 1887, c. 143, s. 17.

Landlord having power to re-enter for non-payment of rent, may recover possession.

21. In case of judgment against the defendant for non-appearance, if it is shown by affidavit to the Court, or is proved upon the trial in case the defendant appears, that half a year's rent was due before the writ was served, and that no sufficient distress was to be found on the demised premises countervailing the arrears then due, and that the lessor had power to re-enter, the lessor shall recover judgment and have execution in the same manner as if the rent in arrear had been demanded, and re-entry made. R. S. O. 1887, c. 143, s. 18.

How such right shall be exercised.

Consequences
of the exercise
of such right.

22. In case the lessee or his assignee, or other person claiming or deriving title under the lease, permits and suffers judgment to be had on such trial and execution to be executed thereon, without paying the rent and arrears together with full costs, and without proceeding for equitable relief within six months after execution executed, then and in every such case the lessee and his assignee and all other persons claiming and deriving under the lease, shall be barred and foreclosed from all relief or remedy other than by proceedings by way of appeal from the judgment, and the landlord or lessor shall from thenceforth hold the demised premises discharged from the lease. R. S. O. 1887, c. 143, s. 19.

As to mortga-
gees of lease.

23. Nothing hereinbefore contained shall bar the right of any mortgagee of such lease or any part thereof who is not in possession, if the mortgagee, within six months after such judgment obtained and execution executed, pays all rent in arrear, and all costs and damages sustained by the lessor or person entitled to the remainder or reversion, and performs all covenants and agreements which on the part and behalf of the first lessee are to be, or ought to be performed. R. S. O. 1887, c. 143, s. 20.

Proceedings if
the tenant
ejected seeks
equitable
relief.

24. In case the lessee, his assignee or other person claiming any right, title or interest of, in or to the lease, proceeds for equitable relief within the time aforesaid, such person shall not be entitled to a stay of the proceedings, unless within forty days next after an application for a stay of the proceedings he brings into Court and lodges with the proper officer such sum of money as the lessor or landlord swears to be due and in arrear over and above all just allowances, and also the costs taxed in the said action, there to remain until the hearing of the application for equitable relief, or to be paid out to the lessor or landlord on good security, subject to the judgment or order of the Court; and in case such proceedings for equitable relief are taken within the time aforesaid, and after execution has been executed, the lessor or landlord shall be accountable only for so much as he really and *bona fide*, without fraud, deceit or wilful neglect, has made of the demised premises from the time of his entering into the actual possession thereof, and if what he has so made is less than the rent reserved on the lease, then the lessee or his assignee, before being restored to his possession, shall pay the lessor or landlord what the money so by him made fell short of the reserved rent for the time the lessor or landlord held the lands. R. S. O. 1887, c. 143, s. 21.

If such
proceedings
be after
execution
executed.

Discontinu-
ance if tenant
pays arrears
of rent and
costs before
trial, etc.

25. If the tenant or his assignee at any time before the trial in the action pays or tenders to the lessor or landlord, or to his solicitor in the cause, or pays into Court all the rent and arrears together with the costs, all further proceedings in the action shall cease; and if the lessee or his assigns, upon such pro-

ceeding as aforesaid, obtains equitable relief he and they shall have, hold and enjoy the demised lands according to the lease thereof made, without any new lease. R. S. O. 1887, c. 143, s. 22.

Where lease is determined and tenant refuses to go out.

26. In case (1) the term or interest of any tenant of any lands, tenements or hereditaments, holding the same under a lease or agreement in writing for any term or number of years certain, or from year to year, expires or is determined either by the landlord or tenant by regular notice to quit; and (2) in case a lawful demand of possession in writing, made and signed by the landlord or his agent, is served personally upon the tenant or any person holding or claiming under him, or is left at the dwelling house or usual place of abode of such tenant or person; and (3,) in case such tenant or person refuses to deliver up possession accordingly, and the landlord thereupon proceeds by action for recovery of possession, he may, at the foot of the writ of summons, address a notice to such tenant or person, requiring him to find such security, if ordered by the Court or a Judge, and for such purposes as are hereinafter next specified. R. S. O. 1887, c. 143, s. 23.

Circumstances under which landlord may give notice to tenant to find security.

27. Upon the appearance of the party, or in case of non-appearance then on making and filing an affidavit of service of the writ and notice, and on the landlord's producing the lease or agreement, or some counterpart or duplicate thereof, and proving the execution of the same by affidavit, and upon affidavit that the premises have been actually enjoyed under such lease or agreement, and that the interest of the tenant has expired, or been determined by regular notice to quit (as the case may be), and that possession has been lawfully demanded in manner aforesaid, the landlord may apply to the Court or a Judge for a rule or summons for such tenant or person to shew cause, within a time to be fixed by the Court or Judge on a consideration of the situation of the premises, why such tenant or person should not enter into a bond by himself and two sufficient sureties, in a reasonable sum, conditioned to pay the costs and damages which may be recovered by the plaintiff in the action, and the Court or Judge, upon cause shewn or upon affidavit of the service of the rule or summons in case no cause is shewn, may make the same absolute in whole or in part, and order such tenant or person within a time to be fixed, upon a consideration of all the circumstances, to give such bond to the plaintiff with such conditions and in such manner as may be specified in the said rule or summons, or the part of the same so made absolute. R. S. O. 1887, c. 143, s. 24.

Court or judge may order.

28. In case the party neglects or refuses to comply with such rule or order, and gives no ground to induce the Court or Judge to enlarge the time for obeying the same, then the lessor

If order not obeyed judgment may be signed.

or landlord, upon filing an affidavit that such rule or order has been made and served and not complied with, may sign judgment for the recovery of possession and costs of suit. R. S. O. 1887, c. 143, s. 25.

Limitation of
action upon
bond.

29. No action or other proceeding shall be commenced upon the bond after six months from the time when the possession of the premises or any part thereof has been actually delivered to the landlord. R. S. O. 1887, c. 143, s. 26.

EXEMPTIONS FROM DISTRESS.

Goods exempt
from execution
to be exempt
from distress.

30.—(1) The goods and chattels exempt from seizure under execution, shall not be liable to seizure by distress by a landlord for rent in respect of a tenancy created after the first day of October, 1887, except as hereinafter provided. R. S. O. 1887, c. 143, s. 27 (1) part.

(2) In the case of a monthly tenancy the said exemption shall only apply to two months' arrears of rent. 55 V. c. 31, s. 1.

(3) The person claiming such exemption shall select and point out the goods and chattels as to which he claims exemption. R. S. O. 1887, c. 143, s. 27 (2).

Goods on
premises not
property of
tenant to be
exempt.

31.—(1) A landlord shall not distrain for rent on the goods and chattels the property of any person except the tenant or person who is liable for the rent, although the same are found on the premises; but this restriction shall not apply in favour of a person claiming title under or by virtue of an execution against the tenant, or in favour of any person whose title is derived by purchase, gift, transfer, or assignment from the tenant, whether absolute or in trust, or by way of mortgage or otherwise, nor to the interest of the tenant in any goods on the premises in the possession of the tenant under a contract for purchase, or by which he may or is to become the owner thereof upon performance of any condition, nor where goods have been exchanged between two tenants or persons by the one borrowing or hiring from the other for the purpose of defeating the claim of or the right of distress by the landlord, nor shall the restriction apply where the property is claimed by the wife, husband, daughter, son, daughter-in-law, or son-in-law of the tenant, or by any other relative of his, in case such other relative lives on the premises as a member of the tenant's family, or by any person whose title is derived by purchase, gift, transfer or assignment from any relative to whom such restriction does not apply. 57 V. c. 43, s. 1; 60 V. c. 15, Sched. A (60).

Exceptions.

(2) Nothing in this section contained shall exempt from seizure by distress goods or merchandise in a store or shop managed or controlled by an agent or clerk for the owner of such goods or merchandise when such clerk or agent is also

the tenant and in default and the rent is due in respect of the store or shop and premises rented therewith and thereto belonging, when such goods would have been liable to seizure but for this Act.

(3) Subject to sections 39 and 40 of this Act the word "tenant," in this section shall extend to and include the sub-tenant and the assigns of the tenant and any person in actual occupation of the premises under or with the assent of the tenant during the currency of the lease, or while the rent is due or in arrear whether he has or has not attained to or become the tenant of the landlord. R. S. O. 1887, c. 143, s. 28 (2, 3).

meaning of, in this section.

32.—(1) A tenant who is in default for non-payment of rent and claims the benefit of the exemption from distress to which he is entitled under this Act, must give up possession of the premises forthwith, or be ready and offer to do so.

Tenant claiming exemption must surrender premises.

(2) The offer may be made to the landlord or to his agent; and the person authorized to seize and sell the goods and chattels, or having the custody thereof for the landlord, shall be considered an agent of the landlord for the purpose of the offer and surrender to the landlord of the possession.

(3) Where a landlord desires to seize the exempted goods, he shall, after default has been made in the payment of rent and before or at the time of seizure serve the tenant with a notice which shall inform the tenant what amount is claimed for rent in arrear, and that in default of payment, if he gives up possession of the premises to the landlord after service of the notice, he will be entitled to claim exemption for such of his goods and chattels as are exempt from seizure under execution, but that if he neither pays the rent nor gives up possession his goods and chattels will be liable to seizure, and will be sold to pay the rent in arrear and costs. R. S. O. 1887, c. 143, s. 30 (1, 2, 4).

Seizure of exempted goods.

(4) The notice may be in the following form or to the like effect:

Take notice that I claim \$ for rent due to me in respect of the premises which you hold as my tenant, namely, (*here briefly describe them*); and unless the said rent is paid, I demand from you immediate possession of the said premises; and I am ready to leave in your possession such of your goods and chattels as in that case only you are entitled to claim exemption for.

Take notice further, that if you neither pay the said rent nor give me up possession of the said premises within three days after the service of this notice, I am by law entitled to seize and sell and I intend to seize and sell all your goods and chattels, or such part thereof as may be necessary for the payment of the said rent and costs.

This notice is given under the Act of the Legislature of Ontario, respecting the Law of Landlord and Tenant.

Dated this day of

A.D.

(Signed) A.B. (landlord).

To C.D. (tenant.)

R. S. O. 1887, c. 143, s. 30 (5); 59 V., c. 42, s. 2.

(5) The surrender of possession in pursuance of the notice by the landlord shall be a determination of the tenancy. R. S. O. 1887, c. 143, s. 30 (3).

(6) Service of papers under this Act shall be made either personally or by leaving the same with some grown person being in and apparently residing on the premises occupied by the person to be served.

(7) If the tenant cannot be found and his place of abode is either not known, or admission thereto cannot be obtained, the posting up of the paper on some conspicuous part of the premises, shall be deemed good service.

(8) No proceeding under this section shall be deemed defective or rendered invalid by any objection of form. R. S. O. 1887, c. 143, s. 30 (6-8).

Right of set-off.

33.—(1) A tenant may set-off against the rent due a debt due to him by the landlord.

(2) The set-off may be by a notice in the form or to the effect following, and may be given before or after the seizure :

Take notice, that I wish to set-off against rent due by me to you, the debt which you owe to me on your promissory note for _____, dated _____, (or for eight months' wages at \$20 per month, \$160, or as the case may be).

(3) In case of such notice the landlord shall only be entitled to distrain for the balance of rent after deducting any debt justly due by him to the tenant. R. S. O. 1887, c. 143, s. 29.

Lien of landlord for rent after assignment for benefit of creditors.

34.—(1) In case of an assignment for the general benefit of creditors the preferential lien of the landlord for rent shall be restricted to the arrears of rent due during the period of one year last previous to, and for three months following, the execution of such assignment and from thence so long as the assignee shall retain possession of the premises leased.

Assignee may retain possession for remainder of term.

(2) Notwithstanding any provision, stipulation or agreement in any lease or agreement contained, in any case of an assignment for the general benefit of creditors, or in case an order is made for the winding-up of an incorporated company, being lessees, the assignee or liquidator shall be at liberty within one month from the execution of such assignment or the making of such winding-up order by notice in writing under his hand given to the lessor to elect to retain the premises occupied by the assignor or company as aforesaid at the time of such assignment or winding-up, for the unexpired term of any lease under which the said premises were held, or for such portion of the said term as he shall see fit, upon the terms of such lease and paying the rent therefor provided by said lease. 58 V. c. 26, s. 3.

RE-ENTRY OF LANDLORD.

35. Where a landlord has by law a right to enter for non-payment of rent, it shall not be necessary to demand the rent on the day when due, or with the strictness required at common law, and a demand of rent shall suffice notwithstanding more or less than the amount really due is demanded, and notwithstanding other requisites of the common law are not complied with: Provided that, unless the premises are vacant, the demand be made fifteen days at least before entry; such demand to be made on the tenant personally anywhere, or on his wife or some other grown up member of his family on the premises. R. S. O. 1887, c. 143, s. 31.

Common law strict demand of rent dispensed with when landlord entitled to re-enter.

Proviso.

SALE OF GROWING CROPS.

36. When growing or standing crops, which may be seized and sold under execution, are seized for rent, they may, at the option of the landlord or upon the request of the tenant, be advertised and sold in the same manner as other goods, and it shall not be necessary for the landlord to reap, thresh, gather or otherwise market the same. R. S. O. 1887, c. 143, s. 32.

Sale of growing crops.

37. Any person purchasing a growing crop at such sale, shall be liable for the rent of the lands upon which the same is growing at the time of the sale, and until the crop shall be removed, unless the same has been paid or has been collected by the landlord, or has been otherwise satisfied, and the rent shall, as nearly as may be, be the same as that which the tenant whose goods were sold was to pay, having regard to the quantity of land and to the time during which the purchaser shall occupy it. R. S. O. 1887, c. 143, s. 33.

Liability of purchaser of growing crops.

APPLICATION OF CERTAIN SECTIONS.

38. Sections 30, 31, 32, and 33, shall apply only to tenancies created on or after the first day of October, 1887. R. S. O. 1887, c. 143, s. 42.

Application of ss. 30, 31, 32 and 33.

PROTECTION OF GOODS OF LODGERS FROM DISTRESS.

39. If a superior landlord shall levy or authorize to be levied a distress on any furniture, goods or chattels of any boarder or lodger for arrears of rent due to the superior landlord by his immediate tenant the boarder or lodger may serve the superior landlord, or the bailiff or other person employed by him to levy the distress, with a declaration in writing, made by the boarder or lodger, setting forth that the immediate tenant has no right of property or beneficial interest in the furniture, goods or chattels so distrained or threatened to be distrained upon, and that such furniture, goods or chattels

Declaration by boarder or lodger that immediate tenant has no property in goods distrained.

are the property or in the lawful possession of such boarder or lodger; and also setting forth whether any and what amount by way of rent, board or otherwise is due from the boarder or lodger to the said immediate tenant; and the boarder or lodger may pay to the superior landlord, or to the bailiff or other person employed by him as aforesaid, the amount, if any, so due as last aforesaid, or so much thereof as shall be sufficient to discharge the claim of the superior landlord; and to such declaration shall be annexed a correct inventory, subscribed by the boarder or lodger, of the furniture, goods and chattels referred to in the declaration. R. S. O. 1887, c. 143, s. 44.

Penalty.

40. If a superior landlord, or a bailiff or other person employed by him, after being served with the before mentioned declaration and inventory, and after the boarder or lodger shall have paid or tendered to the superior landlord, bailiff or other person, the amount, if any, which, by the last preceding section, the boarder or lodger is authorized to pay, shall levy or proceed with a distress on the furniture, goods or chattels of the boarder or lodger, the superior landlord, bailiff or other person shall be deemed guilty of an illegal distress, and the boarder or lodger may replevy such furniture, goods or chattels in any court of competent jurisdiction and the superior landlord shall also be liable to an action at the suit of the boarder or lodger, in which action the truth of the declaration and inventory may likewise be inquired into. R. S. O. 1887, c. 143, s. 45.

Payments by
boarder or
lodger to
superior
landlord.

41. Any payment made by a boarder or lodger pursuant to section 39 of this Act shall be deemed a valid payment on account of the amount due from him to the immediate tenant mentioned in the said section. R. S. O. 1887, c. 143, s. 46.

Declaration
how made.

42. The declaration hereinbefore referred to shall be made under and in accordance with *The Canada Evidence Act, 1893*. R. S. O. 1887, c. 143, s. 47.

[*As to costs of Distress for Rent, see Cap. 75.*]

CHAPTER 171.

An Act respecting Overholding Tenants.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

APPLICATION AGAINST OVERHOLDING
TENANT, s. 3.PROCEEDINGS BEFORE COUNTY JUDGE,
ss. 4, 5.

REMOVAL TO HIGH COURT, s. 6.

COSTS, s. 7.

WITNESSES, s. 8.

OTHER REMEDIES SAVED, s. 9.

ENTITLING AND SERVICE OF PAPERS,
ss. 10, 11.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the of the Province of Ontario,
enacts as follows:—

1. This Act may be cited as "*The Overholding Tenants* Short title.
Act."

2. In the construction of this Act—

Interpretation

1 "Tenant" shall mean and include an occupant, a sub- "Tenant."
tenant, under-tenant, and his and their assigns and legal repre-
sentatives;

2 "Landlord" shall mean and include the lessor, owner, "Landlord."
the person giving or permitting the occupation of the premises
in question and the person entitled to the possession thereof,
and his and their heirs and assigns and legal representatives.
R. S. O. 1887, c. 144, s. 1.

3.—(1) In case a tenant, after his lease or right of occupation whether created by writing or by verbal agreement, has expired, or been determined, either by the landlord or by the tenant, by a notice to quit or notice pursuant to a proviso in any lease or agreement in that behalf, or has been determined by any other act whereby a tenancy or right of occupancy may be determined or put an end to, wrongfully refuses, upon demand made in writing, to go out of possession of the land demised to him, or which he has been permitted to occupy, his landlord, or the agent of his landlord, may apply upon affidavit to the Judge of the County Court of the county, or union of counties, in which the land lies, and wherever such Judge then is, to make an inquiry as is hereinafter provided for.

Application to
be made to the
County Court
Judge against
overholding
tenant.

Judge
to appoint
time and place
for determin-
ing matter.

(2) Such judge shall in writing appoint a time and place at which he will inquire and determine whether the person complained of was tenant to the complainant for a term or period which has expired or has been determined by a notice to quit or for default in payment of rent or otherwise, and whether the tenant holds the possession against the right of the landlord, and whether the tenant does wrongfully refuse to go out of possession, having no right to continue in possession, or how otherwise. R. S. O. 1887, c. 144, s. 2; 59 V. c. 42, s. 4 (1). 60 V. c. 14, s. 28 (2).

Notice thereof
to be served on
the tenant.

4. Notice in writing of the time and place so appointed for holding such inquiry, and stating briefly the principal facts alleged by the landlord to entitle him to possession, shall be served by the landlord, upon the tenant or left at his place of abode, at least three days before the day so appointed, if the place so appointed is not more than twenty miles from the tenant's place of abode, and one day in addition for every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles, to which notice shall be annexed a copy of the Judge's appointment and of the affidavit on which the appointment was obtained, and of the papers attached thereto. R. S. O. 1887, c. 144, s. 4; 59 V. c. 42, s. 4 (3); 60 V. c. 14, s. 28 (3).

Proceedings in
default of ap-
pearance.

5. If at the time and place appointed, as aforesaid, the tenant, having been duly notified, as above provided, fails to appear, the Judge, if it appears to him that the tenant wrongfully holds, may order a writ to issue to the sheriff in the Queen's name, commanding him forthwith to place the landlord in possession of the premises in question; but if the tenant appears at such time and place, the Judge shall, in a summary manner, hear the parties, and examine into the matter, and shall administer an oath or affirmation to the witnesses called by either party, and shall examine them; and if after such hearing and examination it appears to the Judge that the case is clearly one coming under the true intent and meaning of section 3 of this Act, and that the tenant wrongfully holds against the right of the landlord, then he shall order the issue of such writ, as aforesaid, otherwise he shall dismiss the case; and the proceedings in any such case, shall form part of the records of the County Court; and the said writ may be in the words or to the effect of Form 1 or Form 2, in the Schedule to this Act, according as the tenant is ordered to pay costs or otherwise. R. S. O. 1887, c. 144, s. 5; 58 V. c. 13, s. 23 (3); 59 V. c. 18, Sched. 47.

In case of ap-
pearance.

Proceedings to
form part of
the records of
the Court.

Removal on
certiorari.

6. Where such writ has been issued, the High Court or a Judge thereof may on motion, within three months after the issue of the writ, command the Judge to send up the proceedings and evidence in the case to the Court, certified under his

hand, and the Court may examine into the proceedings, and, if the Court finds cause, may set aside the same, and may if necessary, order a writ to issue to the sheriff, commanding him to restore the tenant to his possession, in order that the question of right, if any appears, may be tried, as in ordinary actions for the recovery of land. R. S. O. 1887, c. 144, s. 6.

Writ of restitution.

7. The Judges of the High Court may from time to time, make such Rules respecting costs, in cases under this Act, as to them seem proper; and the County Court Judge before whom any such case is brought may, in his discretion, award costs therein, according to any such Rule then in force, and if no such Rule is in force, reasonable costs, in his discretion, to the party entitled thereto; and in case the party complaining is ordered to pay costs, execution may issue therefor, out of the County Court as in other cases in the County Court, where an order is made for the payment of costs. R. S. O. 1887, c. 144, s. 7.

Judges of High Court may make rules as to costs.

Execution.

8. The Judge may cause any person to be summoned as a witness to attend before him in any such case, in like manner as witnesses are summoned in other cases in the County Court, and under like penalties for non-attendance, or refusing to answer in such case. R. S. O. 1887, c. 144, s. 8.

Summoning witnesses.

9. Nothing herein contained shall in any way affect the powers of any Judge or Judges of the High Court under sections 26, 27 and 28, of *The Act respecting the Law of Landlord and Tenant*, or shall prejudice or affect any other right or right of action or remedy which landlords may possess in any of the cases herein provided for. R. S. O. c. 144, s. 9.

Other remedies of landlords.

Rev. Stat. c. 170.

10. The proceedings under this Act shall be entitled in the County Court of the county or union of counties in which the premises in question are situate, and shall be styled:

Proceedings, how entitled

“In the matter of (*giving the name of the party complaining*), Landlord, against (*giving the name of the party complained against*) Tenant.”

R. S. O. 1887, c. 144, s. 10.

11. Service of all papers and proceedings under this Act shall be deemed to have been properly effected if made as required by law, in respect of writs and other proceedings in actions for the recovery of land. R. S. O. 1887, c. 144, s. 11.

Service papers.

SCHEDULE.

FORM 1.

(Section 5.)

WRIT OF POSSESSION (WITH COSTS).

ONTARIO, }
TO WIT : }

Victoria, by the Grace of God, of the United Kingdom of Great Britain
and Ireland, Queen, Defender of the Faith.

[L S.]

To the Sheriff of the

Greeting :

Whereas

Judge of the County Court

of _____, by his order dated the _____ day of _____ A. D. 18 _____, made in pursuance of *The Act respecting Overholding Tenants*, on the complaint of _____ against _____, adjudged

that _____ was entitled to the possession of _____ with the appurtenances in your Bailiwick, and that a Writ should issue out of Our said Court accordingly, and also ordered and directed that the said _____ should pay the costs of the proceedings had under the said Act, which by Our said Court have been taxed at the sum of _____ :

THEREFORE, WE COMMAND YOU that without delay you cause the said to have possession of the said land and premises, with the appurtenances : And We also command you that of the goods and chattels and lands and tenements of the said in your Bailiwick, you cause to be made being the said costs so taxed by Our said Court as aforesaid, and have that money in Our said Court immediately after the execution hereof, to be rendered to the said

And in what manner you shall have executed this Writ make appear to Our said Court, immediately after the execution hereof, and have there then this Writ.

Witness,
Court at
of

_____, this _____ Judge of our said
_____ day
_____, A.D. 18 ____.

Clerk.

R. S. O. 1887, c. 144, Form 1; 57 V. c. 26, s. 1.

Issued from the office of the Clerk of the
County Court of the County (or United
Countries) of _____
Clerk.

FORM 2.

(Section 5.)

WRIT OF POSSESSION (WITHOUT COSTS.)

ONTARIO, }
To Wit. }

Victoria, by the Grace of God, of the United Kingdom of Great Britain
and Ireland, Queen, Defender of the Faith.

[L. S.]

To the Sheriff of the

Whereas

Court of the

Greeting.

Judge of the County

by his order dated the
day of A. D. 18 , made in pursuance of *The Act*
respecting Overholding Tenants, on the complaint of
against adjudged that
was entitled to the possession of

And ordered that writ should issue out of Our said Court accordingly :
THEREFORE, WE COMMAND YOU that without delay you cause the said
to have possession of the said land and
premises with the appurtenances, and in what manner you shall have ex-
ecuted this Writ make appear to Our said Court, immediately after the
execution hereof, and have there then this Writ.

Witness
Court a
of

, this
A. D. 18 .

Judge of our said
day

Clerk.

}
Issued from the Office of the Clerk of the
County Court of the County (or United
Counties) of
Clerk.

R. S. O. 1887, c. 144, Form 2.

4. *PROFESSION OF THE LAW.*

CHAPTER 172.

An Act respecting The Law Society of Upper Canada.

LAW SOCIETY CONTINUED, ss. 1, 2.

VISITORS, s. 3.

BENCHERS, ss. 4-47.

Election, ss. 5-34.

Powers, ss. 35-47.

LAW BENEVOLENT FUND, s. 48.

REPORTERS, ss. 49-51.

REVENUE AND EXPENDITURE, ss. 52, 53.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

LAW SOCIETY CONTINUED.

Law Society
continued.

1. The Law Society of Upper Canada shall continue as at present constituted, subject to the provisions of this Act, and to the by-laws, resolutions, rules and regulations of the said Society in force at the time this Act takes effect, except so far as the same are inconsistent with this Act, until altered by the Benchers of the said Society pursuant to this Act. R. S. O. 1887, c. 145, s. 1.

Name.

2. The Treasurer and Benchers of the said Society, heretofore incorporated, and their successors, shall continue to be a body corporate and politic, by the name of "The Law Society of Upper Canada," and without license of mortmain may purchase, take, possess, and after acquiring the same, sell, lease or depart with any lands, tenements or hereditaments for the purposes of the said Society, but for no other purpose, and may execute all other matters pertaining to them to do. R. S. O. 1887, c. 145, s. 2.

Right to ac-
quire lands.

VISITORS.

3. The Judges of the Supreme Court of Judicature shall be Visitors of the Society. R. S. O. 1887, c. 145, s. 3.

BENCHERS.

4. The Attorney-General of Canada for the time being and every person who has held that office, if a member of the Bar of Ontario, and the Attorney-General for the time being of Ontario, and all members of the Bar of Ontario, who have at any time held the office of Attorney-General of Ontario, or of Attorney-General or Solicitor-General for that part of the late Province of Canada, formerly called Upper Canada, and any retired Judge of the Supreme Court shall respectively, *ex-officio*, be Benchers of the Society. R. S. O. 1887, c. 145, s. 4.

5. The Benchers of the Law Society, exclusive of *ex-officio* members, shall be thirty in number, to be elected as herein-after provided. R. S. O. 1887, c. 145, s. 5.

6.—(1) The Benchers shall, during the Term next preceding an election, appoint (with their assent) two persons, who, with the Treasurer, shall act as scrutineers at the election; and the said Benchers shall also, during the said preceding Term, appoint a third person, who shall act for and as the Treasurer, in case he should be absent during the meeting of the scrutineers to count the votes.

(2) The first two mentioned scrutineers, shall be members of the Law Society, but shall not be eligible for election to the office of Bencher, and their names shall be printed on the voting paper to be sent by the Secretary of the Society to each voter. R. S. O. 1887, c. 145, s. 6.

7. An election shall be held on the first Thursday after the first Wednesday in April, 1901, and the subsequent elections shall be held on the first Thursday after the first Wednesday in April of every fifth year thereafter; but in case the scrutineers are unable to complete the scrutiny upon such day, the same shall be continued from day to day until the election is declared. In case any scrutineer is absent during the scrutiny the others may nevertheless proceed therewith. R. S. O. 1887, c. 145, s. 7.

8. Each member of the Bar, not hereinafter declared ineligible as an elector, may vote for thirty persons. R. S. O. 1887, c. 145, s. 8.

9. The votes shall be given by closed voting papers, in the form in the Schedule to this Act, or to the like effect, being delivered to the Secretary of the Law Society on the first Wednesday of April of the year proper for the election, or during the Monday and Tuesday immediately preceding. Any voting

papers received by the said Secretary by post during the said days, or during the preceding week, shall be deemed delivered to him. R. S. O. 1887, c. 145, s. 9.

Form of voting paper to be sent to voters.

10. It shall be the duty of the Secretary to send to each member of the Bar whose name is on the alphabetical list or register mentioned in section 17, where his residence is known to the Secretary, one copy of the said form of voting paper applicable to the election then next to be held. Such form shall be sent in such manner and at such time before the holding of the election as may be directed by rule of the Benchers in convocation. R. S. O. 1887, c. 145, s. 10.

List of Benchers to be sent with voting paper.

11. It shall be the duty of the Secretary to send with the said form of voting paper, a list of those persons then already Benchers of the Law Society *ex-officio*, and of those whose term of office is about to expire. R. S. O. 1887, c. 145, s. 11.

Counting the votes.

12. The said voting papers shall, upon the Thursday following, be opened by the Secretary of the Law Society in the presence of the scrutineers, who shall scrutinize and count the votes, and keep a record thereof in a proper book to be provided by the said Society. R. S. O. 1887, c. 145, s. 12.

Persons receiving the most votes to be elected.

13. The thirty persons who have the highest number of votes shall be Benchers of the said Law Society for the next term of five years. R. S. O. 1887, c. 145, s. 13.

Who may be present at opening of voting papers.

14. Any person entitled to vote at such election shall be entitled to be present at the opening of the said voting papers. R. S. O. 1887, c. 145, s. 14.

Equality of votes.

15. In case of an equality of votes between two or more persons, which leaves the election of one or more Benchers undecided, then the said scrutineers shall forthwith put into a ballot-box a number of papers, with the names of the candidates having such equality of votes written thereon, one for each candidate, and the Secretary of the Society shall draw by chance from the ballot-box, in the presence of the scrutineers, one or more of such papers sufficient to make up the required number, and the persons whose names are upon the papers so drawn shall be the Benchers. R. S. O. 1887, c. 145, s. 15.

Voters to pay their bar fees.

16. No person shall be entitled to vote at an election unless all his bar fees to the Law Society have been paid. R. S. O. 1887, c. 145, s. 16.

List of voters.

17.—(1) The Secretary of the Law Society shall, on the first day of the Term previous to the time for any election, make out an alphabetical list or register of the members of the Bar who

are entitled to vote at the succeeding election, and such register may be examined by any member of the said Society at all reasonable times, at the office of the said Secretary.

(2) In case any member of the Society complains to the Secretary, in writing, of the improper omission or insertion of any name in the list, it shall be the duty of the Secretary forthwith to examine into the complaint and rectify the error if any there be; and in case any person is dissatisfied with the decision of the Secretary, he may appeal to the persons who have been appointed to act as scrutineers for the next election thereafter, and the decision of the scrutineers shall be final, and such list shall remain or be altered in accordance with their decision.

Complaints of errors in the list to be made to the Secretary, with an appeal to the scrutineers.

(3) The Secretary shall add to the list the names of all persons who have been called to the Bar during the Term previous to the election; and no alteration shall be made to the list except as is provided in this section; and the list, as it stands revised upon the last Monday of the said last-mentioned Term, shall be the register of persons entitled to vote at the next election.

Persons called to the bar in Term previous to be added to list.

(4) No person whose name is not inserted in the said list shall be entitled to vote at the election. R. S. O. 1887, c. 145, s. 17.

18. No person shall be eligible as a Benchers at any election, who is not qualified to vote at the election. R. S. O. 1887, c. 145, s. 18.

Qualifications of Benchers.

19. At all elections retiring Benchers shall be eligible for re-election. R. S. O. 1887, c. 145, s. 19.

Retiring benchers eligible.

20. Any votes cast for any person who is ineligible to be a Benchers, or who is a Benchers *ex officio* shall be null and void; and the election shall be declared as if such votes had not been cast. R. S. O. 1887, c. 145, s. 20.

Void votes.

21. In the event of an elector placing more than thirty names on his voting paper, the first thirty only shall be counted, notwithstanding any of the thirty persons so named may be ineligible for election from any cause whatever. R. S. O. 1887, c. 145, s. 21.

Voting for more than thirty men.

22. Upon the completion of the scrutiny the Secretary shall forthwith declare the result of the election and report the same to the Society, and shall cause the names to be published in the next two issues of the *Ontario Gazette*. R. S. O. 1887, c. 145, s. 22.

Declaration of election.

Regulations
for elections
and remunera-
tion to scruti-
neers.

23. The Benchers of the Society may make such regulations as they consider expedient, not contrary to the provisions of this Act, for regulating the procedure under the preceding sections of this Act, and for the remuneration of the scrutineers. R. S. O. 1887, c. 145, s. 23.

Voting papers
to be kept.

24. The voting papers belonging to any election shall not be destroyed until after all petitions in respect to such election have been decided, but the same shall together with all other papers in connection with the said election be retained by the Secretary. R. S. O. 1887, c. 145, s. 24.

False voting.

25. No person shall sign the name of any other person to a voting paper, under this Act, or alter, or add to or falsify, or fill up any blank in a voting paper signed by another person, or deliver or cause to be delivered, or send or cause to be sent, by post or otherwise, to the Secretary, a false voting paper, or a voting paper which has been added to, or falsified or in which a blank has been filled up after the same was signed. R. S. O. 1887, c. 145, s. 25.

Absence of
Secretary.

26. In the event of there being no Secretary for the time being of the Law Society at the time at which any election under this Act is to be held, or in the event of the Secretary being unable from illness or other unavoidable cause to act at the elections, then and in such case the Treasurer for the time being of the Law Society shall appoint under his hand some other person to act as Secretary, and the person so appointed shall perform all the duties of the Secretary, as prescribed by this Act. R. S. O. 1887, c. 145, s. 26.

Term of office
of Benchers.

27. The persons so elected Benchers as aforesaid shall take office on the first day of Easter Term following their election, and shall hold office until the beginning of the fifth Easter Term after they have entered on their said office, or until the election of their successors. R. S. O. 1887, c. 145, s. 27.

Vacation of
seat for non-
attendance.

28. The seat of a Bencher, who has failed to attend the meetings of the Benchers for three consecutive Terms, shall at the expiration of the said period become vacant. R. S. O. 1887, c. 145, s. 28.

Committee on
election
petitions.

29. The majority of the Benchers present at any meeting in the first Easter Term after their election, may appoint a committee of their number to enter upon any inquiry with respect to the due election of any of the said Benchers whose election or elections may be petitioned against by any member of the Bar who voted at the election of such Bencher or Benchers, and, after such inquiry, to report such Bencher or Benchers as duly or not duly elected or qualified according to the fact, and, if necessary, to report the name or names of the next

in order of votes of the duly qualified members of the Bar, in lieu of the person or persons petitioned against and reported not duly elected or qualified; and on the confirmation of the report by the majority of Benchers (other than those petitioned against) present at any meeting for that purpose, the person or persons so reported, in lieu of those petitioned against as aforesaid shall be taken and deemed to be the duly elected and qualified Benchers. R. S. O. 1887, c. 145, s. 29.

30. No petition against the return of a Benchers shall be entertained unless the petition is filed with the Secretary of the Law Society at least ten days before the first day of Easter Term next succeeding the election, and shall contain a statement of the grounds on which the election is disputed, and unless a copy of the petition is served upon the Benchers whose election is disputed at least ten days before the first day of the said Easter Term; and no grounds not mentioned in the petition shall be gone into on the hearing of the petition. R. S. O. 1887, c. 145, s. 30.

Time for filing election petitions.

Contents of petitions.

31. On such notice being duly filed as aforesaid, the Benchers shall during the first week of the Easter Term succeeding the election, appoint a day for the hearing of the petition, and give notice of such day to the petitioner and to the person whose return is disputed; but all such petitions shall be finally disposed of during the said Easter Term. R. S. O. 1887, c. 145, s. 31.

Hearing of petitions.

32. Any person petitioning against the return of a Benchers shall deposit with the Secretary of the Law Society the sum of \$100 to meet any costs which such Benchers may be put to in the opinion of the committee before which the petition is heard; and the committee shall have power in the event of such petition being dismissed, to award such a sum to be paid to the Benchers petitioned against as in their opinion is just; and shall have power in their discretion in the event of such Benchers being decided to be not duly elected or qualified, to award costs to the petitioner; and the costs so awarded shall be recoverable in any Court of competent jurisdiction. R. S. O. 1887, c. 145, s. 32.

Petitioner to deposit \$100 with Secretary for costs.

Power of committee as to costs.

33. The Benchers shall, on the first meeting after their election, proceed to elect one of their body as Treasurer, who shall be the President of the Society; and such Treasurer shall hold office until the appointment of his successor; and the election of Treasurer shall take place on the first Saturday of Easter Term in every year; provided that the retiring Treasurer shall be eligible for re-election. R. S. O. 1887, c. 145, s. 33.

Election of Treasurer.

Duration of office.

Vacancies
among
Benchers, how
filled up.

34. In case of the failure in any instance to elect the requisite number of duly qualified Benchers, according to the provisions of this Act, or in case of any vacancy caused by the death or resignation of any Bencher, or by any other cause, then it shall be the duty of the remaining Benchers, with all convenient speed, at a meeting to be specially called for the purpose, and to be held during the next Term thereafter, to supply the deficiency in the number of Benchers failed to be elected as aforesaid, or caused by any of the means aforesaid, by appointing to such vacant place or places, as the same may occur, any person or persons duly qualified under the provisions of this Act to be elected as a Bencher or Benchers; and the person or persons so elected shall hold office for the residue of the period for which the other Benchers have been elected. R. S. O. 1887, c. 145, s. 34.

POWERS OF THE BENCHERS.

Benchers may
make rules.

35. The Benchers may from time to time in Convocation make rules for the government of the Law Society, and other purposes connected therewith, under the inspection of the Visitors. R. S. O. 1887, c. 145, s. 35.

Power to
examine wit-
nesses.

36. On the hearing of any election petition or upon any inquiry by a committee the Benchers or committee shall have power to examine witnesses under oath; and a summons under the hand of the Treasurer of the Law Society, or under the hand of three Benchers, for the attendance of a witness, shall have all the force of a subpoena; and any witness not attending in obedience thereto, shall be liable to attachment in the High Court. R. S. O. 1887, c. 145, s. 36.

Appointment
of officers.

37. The Benchers may appoint such officers and servants as may be necessary for the management of the business of the said Law Society. R. S. O. 1887, c. 145, s. 37.

Legal educa-
tion.

38. The Benchers may make rules for the improvement of legal education; and may appoint readers and lecturers with salaries; and may impose fees and prescribe rules for the attendance of students and articled clerks at such readings or lectures, and for examinations thereon, as conditional to call to the Bar, or admission as Solicitor; and may establish scholarships in connection therewith; and may for proficiency at examination, by rules to be established specially in that respect, diminish the number of years of studentship on the books of the Society, or under articles of clerkship, but so as not to reduce the number of years for call to the Bar or admission as Solicitor to less than three. R. S. O. 1887, c. 145, s. 38.

Terms of stu-
dentship may
be reduced.

Call to the
Bar.

39.—(1) The Benchers shall have the power heretofore exercised to call and admit to the practice of the law as a Bar-

risters any person duly qualified to be so admitted, according to the provisions of law and the rules of the Society. R. S. O. 1887, c. 145, s. 39.

(2) The Benchers may in their discretion make rules, providing for the admission of women to practise as Barristers-at-law and Solicitors. 55 V. c. 32, s. 1. 58 V. c. 27, s. 1.

Admission of women as barristers or solicitors.

40. The Benchers may from time to time make all necessary rules, regulations and by-laws and dispense therewith from time to time to meet the special circumstances of any special case respecting the admission of students-at-law, the periods and conditions of study, the call or admission of Barristers to practise the law, and all other matters relating to the discipline and honour of the Bar. R. S. O. 1887, c. 145, s. 40.

Admission of students and barristers.

41. The Benchers with the approbation of the Visitors shall from time to time make such rules as they consider necessary for conducting the examination of persons applying to be admitted as Solicitors, as well touching the articles and service, and the several certificates required by law to be produced by them before their admission, as to the fitness and capacity of such persons to act as Solicitors; and the Society may from time to time nominate and appoint Examiners for conducting such examinations. R. S. O. 1887, c. 145, s. 41 ; c. 147, s. 9.

The Law Society may make rules for the examination of candidates for admission as Solicitors.

42. In any of the foregoing cases where it appears to the Benchers expedient for purposes of further inquiry or investigation, they may suspend, for a period not exceeding twelve months, their final decision in respect to the granting or refusal of the certificate. R. S. O. 1887, c. 145, s. 42.

When Law Society may suspend decision.

43. The Benchers from time to time may also make all necessary rules, regulations and by-laws and dispense therewith from time to time, to meet the special circumstances of any special case respecting the service of articled clerks, the period and conditions of such service, and the admission of Solicitors to practise in the Courts, and all other matters relating to the discipline and practice of such Solicitors and articled clerks. R. S. O. 1887, c. 145, s. 43.

Articled clerks and admission of solicitors.

44. Whenever a person, being a Barrister or a Solicitor of the Supreme Court of Ontario, or a Student-at-Law, or Solicitor's Clerk serving under articles, has been or may hereafter, be found by the Benchers of the Law Society, after due inquiry by a committee of their number or otherwise, guilty of professional misconduct or of conduct unbecoming a Barrister, Solicitor, Student-at-Law or articled Clerk, it shall be lawful for the said Benchers in Convocation to disbar any such Barrister or suspend him from practising as a Barrister for such time as the Benchers may deem proper; to

Powers of Benchers to suspend, disbar or expel in case of misconduct.

resolve that any such Solicitor is unworthy to practise as such Solicitor, or that he should be suspended from practising; to expel from the society, and the membership thereof, such Student or articulated Clerk, and to strike his name from the books of the Society; and to refuse either absolutely or for a limited period to admit such articulated Clerk to the usual examinations, or to grant him the certificate of fitness necessary to enable him to be admitted to practice. R. S. O. 1887, c. 145, s. 44; 60 V. c. 15, Sched. A (29, 31).

Barrister's
privileges to
cease when he
is disbarred.

45. Upon a Barrister being disbarred as aforesaid, all his rights and privileges as a Barrister-at-Law shall thenceforth cease and determine, or in case he is suspended, he shall during the period of his suspension, possess no rights or privileges as a barrister-at-law, and notice of his being disbarred or suspended shall forthwith be given by the Secretary of the Law Society to the High Court. R. S. O. 1887, c. 145, s. 45; 60 V. c. 15, Sched. A (30).

Striking off
the Rolls.

46.—(1) Upon its being resolved by Convocation that a Solicitor is unworthy to practise, a copy of the resolution shall forthwith be communicated to the High Court, and thereupon, without any formal motion, an order of the said Court may be drawn up, striking such Solicitor off the rolls: Provided that such Solicitor may at any time afterwards apply to the said Court to be restored to practice, as heretofore. R. S. O. 1887, c. 145, s. 46.

(2) In case Convocation resolves that a Solicitor should be suspended from practising for a period to be named in the resolution, a copy of the resolution shall be forthwith communicated to the High Court, and thereupon, without any formal motion, an order of the said Court may be drawn up suspending such solicitor from practising for the said period. 60 V. c. 15, Sched. A (31).

Powers of
visitors as to
discipline
vested in the
Benchers.

47. Any powers which the Visitors of the Law Society may have in the said matters of discipline, are hereby vested in the Benchers of the Law Society, and the powers by the preceding three sections of this Act given to the said Benchers may be exercised by them without reference to, or the concurrence of the Visitors. R. S. O. 1887 c. 145, s. 47.

LAW BENEVOLENT FUND.

Widow's and
orphan's fund.

48. The Benchers may by by-law establish a fund for the benefit of the widows and orphans of Barristers, and Solicitors, and of persons who have been such, to be called "The Law Benevolent Fund," and may make all necessary rules and regulations for the management and investment of the said fund, and the terms of subscription and appropriation thereof,

and the conditions under which the widows and orphans of such persons shall be entitled to share in the said fund. R. S. O. 1887, c. 145, s. 48.

REPORTERS.

49.—(1) The Benchers may from time to time appoint such persons, being members of the Law Society, of the degree of Barrister-at-Law, as they may think proper, to be editors and reporters of the decisions of the Court of Appeal and the High Court. Reporters to be appointed by the Benchers.

(2) Such persons shall hold office at the pleasure of the said Benchers, and shall be amenable to them in Convocation for the correct and faithful discharge of their respective duties, according to such regulations as the said Benchers may from time to time make in respect thereof. R. S. O. 1887, c. 145, s. 49.

50. The Benchers shall make regulations for printing and publishing the reports of the said decisions, and the distribution of the reports, and the price and mode of issuing thereof, and all such other regulations in respect thereto, as they may at any time consider necessary; and any profits arising from the reports shall form part of the general funds of the Law Society. R. S. O. 1887, c. 145, s. 50. Benchers to make regulations regarding the reports.

51. The Benchers shall from time to time determine the salaries to be allowed to the editors and reporters, and shall pay the same out of the general funds of the Society. R. S. O. 1887, c. 145, s. 51. Salaries of reporters.

REVENUE AND EXPENDITURE.

52. The fees payable by Barristers, as term fees, and on call to the Bar, and by Solicitors on admission as Solicitors, and for the annual certificate to practise, and by Students and articled Clerks on admission as such, and on examinations and attendance on lectures and readings, shall be paid into the general funds of the Law Society, and shall be such as the Law Society by rule from time to time prescribes. R. S. O. 1887, c. 145, s. 52; c. 147, s. 16 (4). Appropriation of certain fees.

53. The Benchers shall, during Hilary Term in every year, furnish to every member of the Law Society entitled to vote at the election of Benchers, a statement in detail of the revenue and expenditure of the Law Society, for the year ending the 31st day of December preceding each statement, the same to be first duly audited by auditors appointed by said Benchers to audit and report upon the finances of the Law Society. R. S. O. 1887, c. 145, s. 53. Benchers to furnish members with details of revenue, etc.

SCHEDULE.

(Section 9.)

FORM OF VOTING PAPER.

Law Society Election, 18 .

I, _____, of the _____ in the County of _____,
Barrister-at-Law, do hereby declare—

1. That the signature affixed hereto is in my proper handwriting.
2. That I vote for the following persons as Benchers of the Law Society :

A. B., of the _____, in the County of _____

C. D., of the _____, in the County of _____

E. F., of the _____, in the County of _____

G. H., of the _____, in the County of _____

I. J., of the _____, in the County of _____
etc. etc.

3. That I have signed no other voting paper at this election.
4. That this voting paper was executed on the day of the date thereof.

Witness my hand, this _____ day of _____, A. D. 18 .

R. S. O. 1887, c. 145, Sched.

CHAPTER 173.

An Act respecting Barristers-at-Law.

WHO MAY BE ADMITTED, ss. 1-5.

APPOINTMENT OF QUEEN'S COUNSEL,
ss. 6, 7.

PATENTS OF PRECEDENCE, s. 8.

ORDER OF PRECEDENCE, ss. 9-11.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario enacts as follows:—

1. Subject to any rules, regulations or by-laws made by the Benchers of the Law Society of Upper Canada under *The Act respecting the Law Society of Upper Canada*, the following persons, and except as hereinafter provided, no others, may be admitted to practise at the Bar in Her Majesty's Courts in Ontario;—

Who may be admitted to practise at the Bar.
Rev. Stat. c. 172.

1. Any person of the age of twenty-one years, who, having been entered of and admitted into The Law Society of Upper Canada as a student of the laws, has been standing on the books thereof for five years, and has conformed himself to the rules of the Society;

Students of other Barristers standing.

2. Any person who has been admitted into and stands on the books of the Law Society of Upper Canada, as a student of the laws for three years, and has conformed himself to the rules of said Society, and has, prior to the date of his admission to the said Society, and to the books of the said Society as a student, actually taken and had conferred upon him the degree of Bachelor of Arts or Bachelor of Law in any of the Universities of the United Kingdom of Great Britain and Ireland, or of any University or College in this Province or in the Province of Quebec, having power to grant degrees;

Certain students may be admitted after three years' study.

3. Any person who has been duly called to the Bar of England, Scotland or Ireland (excluding the Bar of Courts of merely local jurisdiction)—when the Inn of Court or other authority having power to call or admit to the Bar by which such person was called or admitted, extends the same privilege to Barristers from Ontario—on producing sufficient evidence of such call or admission and testimonials of good character and conduct to the satisfaction of the Law Society;

Admission of English and other Barristers to the bar of Ontario.

Admission of lawyers and students from Quebec to the Bar of Ontario.

4. Any person who has been duly authorized to practise as an Advocate, Barrister, Attorney, Solicitor and Proctor at Law, in all Courts of Justice in Quebec, or who has been found capable and qualified, and entitled to receive a diploma for that purpose under the provisions of the Acts respecting the incorporation of the Bar of Quebec, or who has been duly registered as a clerk and studied during the periods for study respectively required under the provisions of the said Acts, on producing sufficient evidence thereof, and also on producing testimonials of good character, and undergoing an examination in the law of Ontario, to the satisfaction of the Law Society of Upper Canada, and upon his entering himself of the said Society, and conforming to all the rules and regulations thereof;

Barristers of other Provinces.

5. Any person who has been duly called to the Bar of any of Her Majesty's Superior Courts in any of Her Majesty's Provinces of North America in which the same privilege would be extended to Barristers from Ontario, and who produces sufficient evidence of such call and testimonials of good character and conduct to the satisfaction of the Law Society. R.S.O. 1887, c. 146, s. 1.

Admission of solicitors to practice at the bar.

2.—(1) Any person who, before the 5th day of May, 1894 had been duly admitted and enrolled as a Solicitor of the Supreme Court of Judicature for Ontario, and who has or shall have practised as a Solicitor in this Province for the periods respectively hereinafter mentioned, may be admitted to practise at the bar in Her Majesty's Courts in Ontario on the terms and conditions hereinafter mentioned. 57 V. c. 44, s. 5.

When solicitor has practised for ten years.

(2) Where such Solicitor shall previous to the time of filing his application for call have been in actual practice for ten years or more he shall be entitled to be called to the bar without further examination. 57 V. c. 44, s. 6.

When solicitor has practised for five years.

(3) Where such Solicitor shall, previous to the time of filing his application for call, have been in actual practice for five years or more, but not for ten years, he shall be entitled to be called on passing such examination as may be prescribed by the Law Society for such cases, and shall not have to attend the Law School. 57 V. c. 44, s. 7.

Solicitors holding office in High Court.
Rev. Stat. c. 174.

(4) For the purpose of this section, any Solicitor holding any of the offices in the High Court mentioned in section 30 of *The Revised Statute respecting Solicitors* shall be deemed to have been in actual practice within the meaning of this Act while holding such office. 57 V. c. 44, s. 9.

Notice of application for call.

3. Notice of the intention of candidates to apply for call under the provisions of the preceding section shall be sufficient if written notice be given to the Secretary of the Law Society as in ordinary cases of students-at-law for call; and the notice of presentation to convocation shall be signed by a barrister practising in the county or district in which

such candidate resides, and shall certify that the candidate is in the opinion of such barrister a fit and proper person to be called to the bar. No notice in the *Ontario Gazette* or elsewhere shall be necessary. 57 V. c. 44, s. 8 (1).

4. Every such Solicitor before being called to the bar shall be liable to pay such fees only as are paid on the call to the bar in ordinary cases. 57 V. c. 44, s. 8 (2).

5. Any person who is, has been, or shall be, Minister of Justice of Canada, if not already a member of the bar of Ontario, shall be entitled to be called to the bar by the Benchers of the Law Society of Upper Canada without complying with any of the rules or regulations of the society as to admission on the books of the society, examinations, payment of fees or otherwise, and shall thereupon be entitled to practise at the bar in Her Majesty's Court in Ontario. 54 V. c. 25, s. 1.

QUEEN'S COUNSEL AND PRECEDENCE.

6. It was and is lawful for the Lieutenant-Governor by letters patent, under the Great Seal of the Province of Ontario, to appoint from among the members of the Bar of Ontario, such persons as he may deem right to be, during pleasure, Provincial officers under the names of Her Majesty's Counsel learned in the Law for the Province of Ontario. R. S. O. 1887, c. 146, s. 2.

7.—(1) From and after the time when this section comes into force, no appointment of Her Majesty's Counsel learned in the law shall be made by the Lieutenant-Governor in Council beyond the number of five in any one year, or twenty in any four years, save and except in the following cases, namely :

(a) That of any person who may be appointed Attorney-General or Solicitor-General of Canada, or Attorney-General of this Province; Exceptions.

(b) That of any person who may be appointed one of Her Majesty's Counsel learned in the law by the Governor-General in Council for the Federal Courts, and who has not theretofore been appointed as such Counsel by the Lieutenant-Governor in Council.

(2) Except in the cases mentioned in clauses (a) and (b) no person shall be so appointed who is not of at least ten years standing at the Bar of this Province. Qualifications of Queen's Counsel.

(3) The said twenty appointments may all be made at one time, or partly at one time and partly at other times during any four years as the Lieutenant-Governor in Council may determine. When appointments may be made.

When this section shall come into force.

(4) This section shall not come into force until the day after the day which shall be named by the Lieutenant-Governor by his proclamation for the coming into force of the Act passed in the 60th year of Her Majesty's reign entitled *An Act respecting the Appointment of Queen's Counsel*, and from such first mentioned day the said Act shall be repealed and this section shall be substituted therefor. 60 V. c. 26, ss. 1-4.

Order of precedence at the Bar.

8. The following members of the Bar of this Province shall have precedence in the Courts of this Province in the following order:

1 The Attorney-General of Canada for the time being;

2 The Attorney-General of Ontario, for the time being;

3 The members of the said Bar who have filled the offices of Attorney-General for the late Province of Upper Canada, or Attorney-General of the Dominion of Canada, or Attorney-General of this Province, according to seniority of appointment as such Attorney-General;

4 The members of the said Bar who have filled the office of Solicitor-General for Upper Canada according to seniority of appointment as such Solicitor-General; and

5 The members of the Bar who were, before the 1st day of July, in the year of our Lord 1867, appointed Her Majesty's Counsel for Upper Canada, so long as they are such Counsel, according to seniority of appointment as such Counsel. R. S. O. 1887, c. 146, s. 3.

Patents of precedence.

9. The Lieutenant-Governor by letters patent under the Great Seal of Ontario may grant to any member of the Bar a patent of precedence in the said Courts. R. S. O. 1887, c. 146, s. 4.

Precedence of Queen's Counsel and members holding patents of precedence.

10. Members of the Bar from time to time appointed after the 1st day of July, in the year of Our Lord 1867, to be Her Majesty's Counsel for the Province, and members of the Bar to whom, from time to time, patents of precedence are granted, shall severally have such precedence in the said Courts as are assigned to them by letters patent, issued by the Lieutenant-Governor under the Great Seal. R. S. O. 1887, c. 146, s. 5.

Precedence of other members of the Bar.

11. The remaining members of the Bar shall, as between themselves, have precedence in the said Courts in the order of their call to the Bar. R. S. O. 1887, c. 146, s. 6.

Crown Counsel.

12. Nothing in this Act contained shall in any wise affect or alter any rights of precedence which may appertain to any member of the Bar when acting as Counsel for Her Majesty, or for any Attorney-General of Her Majesty, in any matter depending in the name of Her Majesty or of the Attorney-General before the said Courts, but such right and precedence shall remain as if this Act had not been passed. R. S. O. 1887, c. 146, s. 7.

CHAPTER 174.

An Act respecting Solicitors.

ADMISSION AND ENROLMENT NECESSARY, s. 1.

WHO MAY BE ADMITTED, ss. 3-8.

SERVICE OF ARTICLED CLERKS, s. 9.

CONDITIONS OF ADMISSION, s. 10.

EXAMINATIONS, ss. 11-13.

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ANNUAL CERTIFICATES :—

Issue of, ss. 16-21.

Penalties for not taking out, etc., ss. 22-24.

YEARLY LISTS OF PRACTISING SOLICITORS, ss. 25, 26.

OFFENCES AND PENALTIES :—

Solicitors not to practise while in prison or under suspension, s. 27.

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Practising while holding certain offices, s. 30.

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STRIKING OFF THE ROLL :—

Time for, limited in certain cases, s. 32.

Proceedings in case of, s. 33.

COSTS—TAXATION OF, ss. 34-51.

JUDGES MAY MAKE RULES, ss. 52-55.

JURISDICTION OF COURTS NOT AFFECTED, s. 56.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

SOLICITORS TO BE ADMITTED AND ENROLLED.

1. Unless admitted and enrolled and duly qualified to act as a Solicitor, no person shall act as a Solicitor in any Court of Civil or Criminal Jurisdiction or before any Justice of the Peace, or shall as such sue out any writ or process, or commence, carry on, solicit or defend any action, or proceeding in the name of any other person, or in his own name. R. S. O. 1887, c. 147, s. 1.

Solicitors must be admitted and enrolled.

2. In case any person, unless himself a plaintiff or defendant in the proceeding, commences, prosecutes or defends in his own name, or that of any other person, any action or proceeding without being admitted and enrolled as hereinafter provided, he shall be incapable of recovering any fee, reward or disbursements on account thereof; and such offence shall be a contempt of the Court in which such proceeding has been com-

Penalty on persons practising without being admitted as Solicitors.

menced, carried on or defended, and punishable accordingly. R. S. O. 1887, c. 147, s. 26.

[As to Division Courts, see Cap. 60, sec. 126, and as to proceedings to enforce Mechanics Liens, see Cap. 153, sec. 35, subsec. 5.]

WHO MAY BE ADMITTED.

Solicitors and Attorneys.

3.—(1) All persons heretofore admitted as Solicitors or Attorneys of, or by law empowered to practise in, any Court the jurisdiction of which is now vested in the High Court shall be called "Solicitors of the Supreme Court of Judicature for Ontario," and shall be entitled to the same privileges, and be subject to the same obligations, so far as circumstances will permit, as Solicitors or Attorneys were entitled or subject to prior to the 22nd day of August, 1881.

44 V. c. 5.

(2) All persons who from time to time, if *The Ontario Judicature Act, 1881*, had not passed, would have been entitled to be admitted as Solicitors or Attorneys of, or been by law empowered to practise in, any such Courts, shall be entitled to be admitted on payment of the fees mentioned in section 15 and shall be so admitted by any Divisional Court, and shall be Solicitors of the Supreme Court aforesaid.

(3) Any Solicitors to whom this section applies shall be deemed to be officers of the Supreme Court; and that Court, and the High Court of Justice and the Court of Appeal respectively, or any Division or Judge thereof, may exercise the same jurisdiction in respect of such Solicitors as any one of the Superior Courts or a Judge thereof might, previously to the 22nd day of August, 1881, have exercised in respect of any Solicitor or Attorney admitted to practise therein. R. S. O. 1887, c. 147, s. 2.

Who may be admitted and enrolled Solicitors. Rev. Stat. c. 172.

4. Subject to the provisions hereinafter contained and to any rules and regulations made by the Benchers of the Law Society of Upper Canada, under *The Act respecting the Law Society of Upper Canada*, the following persons and except as hereinafter provided no others, may be admitted and enrolled as Solicitors:—

Articled clerks after five years service.

1. Any person who has been bound by contract in writing to a practising Solicitor in Ontario to serve and has served him as his clerk for five years;

Graduates of Universities after three years' service.

2. Any person who has actually taken and had conferred upon him the degree of Bachelor or Master of Arts, or of Bachelor or Doctor of Laws, in any of the Universities of the United Kingdom of Great Britain and Ireland, or of this Province or the Province of Quebec having power to grant degrees, and has, after having taken and had conferred upon him such degree, been bound by contract in writing to a practising Solicitor in Ontario to serve and has served him as his clerk for three years;

3. Any person who has been duly called to practise at the Bar of Ontario, or who has been duly called to practise at the Bar of any of Her Majesty's Superior Courts not having merely local jurisdiction in England, Scotland or Ireland, and has been bound by contract in writing to a practising Solicitor in Ontario to serve and has served him as his clerk for three years ;

Barristers of Ontario or England, Scotland or Ireland after three years' service.

4. Any person duly and lawfully sworn, admitted and enrolled a Solicitor of Her Majesty's Supreme Court of Judicature in England or Ireland, or who has been Writer of the Signet or Solicitor in the Supreme Courts in Scotland, and has been bound by contract in writing to a practising Solicitor in Ontario to serve and has served him as his clerk for one year ;

Solicitors of Courts of England, Scotland or Ireland after one year's service.

5. Any Attorney or Solicitor of any of Her Majesty's Superior Courts of Law or Equity in any of Her Majesty's Colonies wherein the Common Law of England is the Common Law of the land, and who has been bound by contract in writing to a practising Solicitor in Ontario, to serve and has served him as his clerk for one year. R. S. O. 1887, c. 147, s. 3

Solicitors of Courts in Colonies after one year's service

5.—(1) Any person who before the 5th day of May, 1894 was duly called to practice at the Bar of Ontario, and who has or shall have practised as a Barrister in this Province for the periods respectively hereinafter mentioned, may be admitted and enrolled as a Solicitor on the terms and conditions hereinafter mentioned. 57 V. c. 44, s. 1.

Admission of certain barristers as solicitors.

(2) Where such Barrister shall previous to the time of filing his application for certificate of fitness have been in actual practice for ten years or more, he shall be entitled to such certificate without any examination. 57 V. c. 44, s. 2.

When barrister has practised for ten years.

(3) Where such Barrister shall previous to the time of filing his application for certificate of fitness have been in actual practice for five years or more but not for ten years, he shall be entitled to the certificate on passing such examination as may be prescribed by the Law Society for such cases, and shall not have to attend the Law School. 57 V. c. 44, s. 3.

When barrister has practised for five years.

6.—(1) Notice of the intention of candidates to apply for certificate of fitness under the provisions of the preceding section shall be sufficient, if written notice be given to the Secretary of the Law Society as in ordinary cases of articulated clerks ; and the application for certificate of fitness shall be signed by a Barrister practising in the county or district in which such candidate resides, who shall certify that the candidate is in the opinion of such Barrister a fit and proper person to be admitted and enrolled as a Solicitor. No notice in the *Ontario Gazette* or any newspaper shall be necessary.

Notice of application for certificate of fitness.

(2) Every such Barrister before obtaining his certificate of fitness to be admitted and enrolled as a Solicitor shall be liable

Fees

to pay such fees only as are payable by an articled clerk in ordinary cases on his being admitted as a Solicitor. 57 V. c. 44, s. 4.

Issue of certificates of fitness to Barristers in certain cases.

7. The Benchers of The Law Society of Upper Canada may in their discretion grant to any person who has been called by the Society to the degree of Barrister-at-Law prior to the 1st day of January, 1891, and who passes the usual examination prescribed for admission to practice as Solicitor, and who pays the usual fees in that behalf, a certificate under the corporate seal of the society of his fitness and capacity, and that he is in all respects duly qualified to be admitted as a Solicitor; and upon the production of such certificate to one of the judges of the High Court, and his fiat of admission being endorsed thereon; the High Court may cause such person to be admitted and enrolled as a solicitor, as provided in section 14 of this Act. 54 V. c. 25, s. 2.

Barristers of Quebec who have been called to the Bar of Ontario. Rev. Stat. c. 173.

8. The High Court may in its discretion admit as Solicitors any persons who have been called to the degree of Barrister-at-Law under the provisions of clause 4 of section 1 of *The Act respecting Barristers-at-Law*, on their producing such evidence and testimonials, and undergoing an examination in the law of Ontario under the direction of the Law Society of Upper Canada to the satisfaction of the Court. R. S. O. 1887, c. 147, s. 4.

SERVICE OF ARTICLED CLERKS.

Articled clerks. Rev. Stat. c. 172.

9. Subject to the powers of the Benchers to make rules, regulations and by-laws, under *The Act respecting the Law Society of Upper Canada*, the following enactments are made with respect to the service of articled clerks :—

Contracts of service to be filed.

1. Whenever any person has been bound by contract, in writing, to serve as a clerk to a Solicitor, such contract with the affidavit of execution thereof annexed thereto, shall within three months next after the execution of the contract be filed in the Central Office of the High Court, and the proper officer in the said office shall endorse and sign upon the contract and affidavit a memorandum of the day of filing thereof, and every assignment of such contract, together with an affidavit of the execution thereof annexed thereto, shall be filed in like manner within the like period of three months next after the execution thereof. Every such affidavit shall state the date of the execution of the articles or assignment, as the case may be, by the parties thereto respectively;

Provision in case contract not filed in three months.

2. In case the contract or assignment (as the case may be) with the affidavit of execution annexed thereto, is not filed within three months after the date of the contract or assign-

ment, the same may nevertheless be filed in the said office, but the service of the clerk shall be reckoned only from the date of the filing, unless the Law Society in its discretion for special reasons in any particular case otherwise orders ;

3. Every person authorized to practise as a Solicitor may have under contract in writing four clerks at one time, and no more : and no Solicitor shall have any clerk bound as aforesaid, after the Solicitor has discontinued practising as, or carrying on the business of, a Solicitor, nor whilst the Solicitor is employed as a writer or clerk by any other Solicitor ; and the service by an articulated clerk to a Solicitor under any such circumstances, shall not be deemed good service under the articles ;

Practising Solicitor may have four articulated clerks, and no more.

4. In case any Solicitor, before the determination of the contract of a clerk bound to him as aforesaid, has become bankrupt, or taken the benefit of any Act for the relief of insolvent debtors, or having been imprisoned for debt has remained in prison for the space of twenty-one days, the High Court may, upon the application of the clerk, order the contract to be discharged or assigned to such person, upon such terms, and in such manner as the Court thinks fit ;

Court may order articles to be discharged or assigned in certain cases.

5. If a Solicitor, to whom a clerk has been so bound, dies before the expiration of the term for which the clerk became bound, or if he discontinues practice as a Solicitor, or if the contract is by the consent of the parties cancelled, or in case the clerk is legally discharged before the expiration of the term by any rule or order of the Court, the clerk may be bound by another contract in writing, to serve as clerk to any other practising Solicitor during the residue of his said term ; and in case an affidavit is duly made and filed of the execution of such last mentioned contract within the time and in the manner hereinbefore directed, and subject to the like regulations with respect to the original contract and the affidavit of its execution, due service under such second or subsequent contract shall be deemed sufficient. R. S. O. 1887, c. 147, s. 5.

Case of death, etc., of the Solicitor to whom clerk articulated.

CONDITIONS OF ADMISSION AS SOLICITOR.

10. (1) Subject to the rules, regulations and by-laws made by the Benchers, under *The Act respecting the Law Society of Upper Canada*, no person above mentioned shall be admitted and enrolled as a Solicitor unless :

be complied with before admission.

Rev. Stat. c. 172.

- (a) He has during the time specified in his contract of service duly served thereunder, and has during the whole of such term of service been actually employed in the proper practice or business of a Solicitor by the Solicitor to whom he has been bound at the place where such Solicitor has continued to reside, during such term or (with his consent) by the professional agent of

the Solicitor in Toronto, for a part of the said term, not exceeding one year; nor unless

(b) He has after the expiration of such term of service been examined and sworn in the manner hereinafter directed; nor unless

(c.) He has, at least fourteen days next before the first day of the Term in which he seeks admission, left with the Secretary of the Law Society his contract of service, and any assignment thereof and affidavits of the execution of the same respectively, and his own affidavit of due service thereunder, and a certificate of the Solicitor to whom he was bound, or his agent as aforesaid, of such due service, and (in the case of a person who has been called to the Bar or taken a degree as hereinbefore mentioned), a certificate of his having been so called to the Bar or taken such degree or a duly authenticated certified copy of such certificate.

Affidavit to be delivered to the Society.

(2) The affidavits shall be in the form approved of by the Visitors of the Law Society, and shall by the applicant be delivered to the Law Society upon his application to be examined.

Provision in case the contract, etc., cannot be produced.

(3) In case the contract of service, assignment (if any) affidavits and certificate of due service, or any of them, cannot be produced, then, on application to be made to the Law Society, by a petition verified by affidavit, to be left with the Secretary of the Society, at least fourteen days next before the first day of the Term on which the applicant seeks admission, the Society on being satisfied of such fact may, in its discretion, dispense with the production of such contract, assignment affidavits and certificate of due service, or any of them, and may, notwithstanding such non-production, grant the certificates provided for in section 13 of this Act.

Time of clerk on militia service may be allowed.

(4) The Benchers may allow any clerk under articles to a practising Solicitor, as part of his term of service, all and every period of time that such clerk may have been employed in the Militia Service when the Militia are called out for actual service.

Oath to be taken by candidates for admission.

(5) No candidate shall be admitted unless he makes and subscribes the oath or affirmation following:

"I, A. B., do swear (or solemnly affirm as the case may be) that I will truly and honestly demean myself in the practice of a Solicitor according to the best of my knowledge and ability; So help me God."

R. S. O. 1887, c. 147, s. 6.

EXAMINATIONS.

Examinations of articulated clerks.

R. v. Stat. c. 172

11. Subject to any rules, regulations, and by-laws made by the Benchers, under *The Act respecting the Law Society of Upper Canada*, the following enactments are made with

respect to the examination of articted clerks and candidates for admission as Solicitors :

1. The Benchers may by regulation require that articted clerks shall pass a preliminary examination ; and the term of service under articles to entitle each articted clerk to be admitted as a Solicitor shall date only from the passing of such examination. Preliminary examination for articted clerks.

2. Notwithstanding anything in this Act contained, no persons being of either of the classes of persons mentioned in subsections 1 and 2 of section 4 of this Act shall be admitted or enrolled as a Solicitor, unless he has at some time during the year next but two before the time of his final examination, and at some time not less than one year thereafter and during the year next but one before the time of his final examination, passed examinations to the satisfaction of the said Benchers. Persons mentioned in subsections 1 and 2 of sec. 4 of this Act to pass two intermediate examinations.

3. In case any person is prevented by illness or other unavoidable cause, from presenting himself for, or fails to pass either of the examinations by this section required, within the time specified, the Benchers may, in their discretion, permit such person to pass such examination at another time; but not less than nine months shall elapse between the first and the second of such examinations, and not less than nine months shall elapse between the second of such examinations and the final examination. R. S. O. 1887, c. 147, s. 7. Provision in case of illness or inability from unavoidable causes or failure.

12.—(1) Subject to the rules and regulations of the Law Society of Upper Canada, as aforesaid, no candidate for admission being of the class of persons respectively mentioned in subsections 3, 4 and 5 of section 4 of this Act, shall be admitted unless ; Provisions respecting candidates of the classes in sub-sections 3, 4, and 5 of section 4.

1. He publishes in the *Ontario Gazette*, at least two months previously, notice of his intention to apply for admission ;

2. Nor (except in the case of a person called to the Bar of Ontario), unless such candidate, at least fourteen days before the first day of such Term, leaves with the Secretary of the Law Society ;

(a) In the case of a Barrister not being a Barrister of Ontario—a certificate under the seal of the Society, or Inn of Court in England, Scotland or Ireland, of which he is a member, duly attested under the proper hand of the proper officer thereof, that he has been duly called to the Bar, and was at the date of such certificate on the books of such Society or Inn of Court ; and also an affidavit of the applicant to the satisfaction of the Benchers, that since his admission to the Bar, no application to any Society or Inn of Court has been made against such person to

disbar him or otherwise to disqualify him for misconduct from further practice in such his capacity of Barrister;

- (b) And in the case of an Attorney or Solicitor,—a certificate under the seal of the proper Court or Courts, duly attested under the hand of the proper officer thereof, that he was duly admitted and enrolled as such Attorney or Solicitor, and was at the date of such certificate on the Roll of Attorneys or Solicitors of such Court or Courts; and also, an affidavit of the applicant, that since his admission as aforesaid no application to any such Court or Courts (as the case may be) has been made against such person to strike him off the Roll of any such Court, or otherwise to disqualify him in the capacity of Attorney or Solicitor.

Date of certificates.

(2) The certificates respectively shall bear date within three months of the first day of the Term during which the application is made. R. S. O. 1887, c. 147, s. 8.

The Law Society to examine into the fitness and capacity of candidates for admission as solicitors.

Rev. Stat. c. 172.

Certificate of fitness.

13. The Benchers, upon proof to their satisfaction of the requisites of this Act having been complied with, shall examine and enquire by such ways and means as they think proper, touching the fitness and capacity of any applicant for admission to act as a Solicitor; and if satisfied by such examination, or by the certificate of the Examiners mentioned in section 41 of *The Act respecting the Law Society of Upper Canada*, that such person is duly qualified, fit, and competent to act as a Solicitor, the Society shall give a certificate under the corporate seal of the said Society of the due service under contract in writing, of such person, and of his fitness and capacity, and of his having duly complied with the requirements of this Act, and that he is in all respects duly qualified to be admitted as a Solicitor. R. S. O. 1887, c. 147, s. 10.

Admission.

14. Upon production to one of the Judges of the High Court of such certificate annexed to the original contract of service and any assignments thereof, and the affidavits of due service thereunder, and all other certificates hereinbefore required, such Judge shall endorse his fiat of admission upon the certificate of the Law Society; and thereupon the High Court may, in addition to the oath of allegiance, administer to such person in open Court the oath hereinbefore directed to be taken by Solicitors, and after such oaths taken may cause him to be admitted and his name to be enrolled as a Solicitor, which admission shall be signed by one of the Registrars of the High Court, and the documents upon which the admission has been obtained shall be filed and retained on record in the proper office of the Court. R. S. O. 1887, c. 147, s. 11.

FEES.

15. The following fees, and no other, shall be payable to the Crown under this Act in stamps, subject to the provisions of *The Act respecting Law Stamps*, that is to say:—

1. On filing Articles and Assignments (if any) and every affidavit of execution of such Articles, and making the endorsement required by this Act \$0 50
2. For fiat, admission, oath and certificate..... 5 50

Act.
Rev. Stat.
c. 2

R. S. O. 1887, c. 147, s. 12.

ANNUAL CERTIFICATES.

16. The officer of the High Court who has the custody of the Roll of Solicitors shall annually, between Trinity and Michaelmas Terms, deliver to the Secretary or at his office in Osgoode Hall, certified under his hand and the seal of the said High Court a copy of so much of the Roll as contains the names of solicitors admitted to practice subsequently to the last return made to the said Secretary. R. S. O. 1887, c. 147, s. 13.

Names of those admitted to be delivered to Secretary annually.

17. The Secretary shall enter all such certified copies in a book to be kept in his office for that purpose, affixing to each name a number following in consecutive order the numbers affixed to the names previously entered. R. S. O. 1887, c. 147, s. 14.

Secretary to keep all copies of Roll in a book.

18. The Secretary shall, in another book to be kept in his office for that purpose enter all the names contained in the copies so transmitted to him alphabetically arranged, with a reference to the number of each name on the Roll; and shall annually on or before the 1st day of February, put up in his office and also in the Central Office of the High Court an alphabetical list certified by him, under his hand, of all Solicitors who have taken out their certificates for the current year, and shall from time to time add to the list put up in his own office the name of each Solicitor who takes out a certificate at a subsequent period of the year, noting thereon the time when the certificate was taken out. R. S. O. 1887 c. 147, s. 15.

Secretary to annually put up alphabetical list in his office and in Central Office.

19. (1) Every practising Solicitor shall obtain from the Secretary of the Law Society, annually, before the last day of Michaelmas Term, a certificate under the seal of the said Society stating that he is a practising Solicitor in the High Court.

certificate to be obtained by Solicitors.

(2) Such certificates shall be issued by the Secretary of the Law Society, under the seal of the Society, according to the list of names appearing in the copy of the roll of Solicitors certified to the said Secretary under section 16 of this Act.

(3) Upon the payment of all fees and dues payable by such Solicitor to the said Society, the Secretary shall write his name on the margin of the certificate, with the date thereof, and the certificate shall be taken as issued only from such date. R. S. O. 1887, c. 147, s. 16 (1-3.)

[As to fees payable, see Chap. 172, sec. 52.]

Fees to be paid before certificate granted.

20. No certificate shall be issued to any Solicitor, who is indebted to the Society, for any Term or other fee payable to the Society, nor until the annual fee for each certificate prescribed by the rules of the Society is paid. R. S. O. 1887, c. 147, s. 17.

Certificate need not be taken out till Michaelmas Term after admission.

21. No Solicitor, admitted as aforesaid, need take out any such certificate until the Michaelmas Term next following his admission. R. S. O. 1887, c. 147, s. 18.

Fine for neglect to take out certificate.

22. If a Solicitor omits to take out such annual certificate in Michaelmas Term, he shall not be entitled thereto until he pays to the Law Society not only the certificate fee, so appointed as aforesaid, together with any other fees or dues which he owes to the Society, but also an additional sum by way of penalty, as follows, namely:

Amount of fine.

If such certificate is not taken out before the first day of Hilary Term, the further sum of \$6: if not before the first day of Easter Term, the further sum of \$9; and, if not before the first day of Trinity Term, the further sum of \$12. R. S. O. 1887, c. 147, s. 19.

Solicitors, etc., practising without certificate to forfeit \$40.

23. If a Solicitor, or any member of a firm of Solicitors, either in his own name or in the name of any member of his firm, practises in the High Court, without such certificate being taken out by him, and by each member of his firm, he shall forfeit the sum of \$40, which forfeiture shall be paid to the Law Society for the uses thereof, and may be recovered in the High Court. R. S. O. 1887, c. 147, s. 20.

Further penalty for practising without a certificate.

24. If a Solicitor practises in the High Court or in a County Court without such certificate in each and every year of his practice, he shall, for such offence, be liable to be suspended by order of the High Court from practice for a period of not less than three nor more than six months, and to continue so suspended until the fee upon his certificate for the year in which he so practised without certificate, is, together with a penalty of \$40, paid to the Law Society. R. S. O. 1887, c. 147, s. 21.

Registrars, etc., at beginning of year, to make out list

25. The Clerk of the Crown and Pleas and every Local Registrar and also every Deputy Clerk of the Crown and Deputy Registrar, when the said offices are not held by the same

person, shall, at the commencement of each year, make out a list of the names of every Solicitor who by the papers or proceedings filed or had in their respective offices appears to have practised as such Solicitor at any time during the preceding year ending with the thirty-first day of December. R. S. O. 1887, c. 147, s. 22 (1).

of solicitors,
who have
been struck
off the Roll,
as 1887, c. 147, s. 22 (1).

26. Each of the said officers shall, on or before the first day of Hilary Term in the year next to that for which they are made up, deliver or hand such lists to the Secretary at Osgoode Hall, certified under their respective hands and seals. R. S. O. 1887, c. 147, s. 22 (2).

And deliver
the same to
the Secretary.

27. In case a Solicitor is a prisoner in any gaol or prison he shall not during his confinement therein or within the limits thereof, nor shall any Solicitor who has been suspended from practising during the period of his suspension commence, prosecute or defend as such Solicitor any action in any Court, nor act in any matter in bankruptcy or insolvency; and any Solicitor so practising, and any Solicitor permitting or empowering him so to practise in his name, shall be guilty of a contempt of the Court in which any such proceedings take place, and (upon the application of any person complaining thereof) shall be punishable by such Court accordingly; and such Solicitor shall be incapable of maintaining any action for the recovery of any fee, reward or disbursement for or in respect of any matter or thing done by him, whilst a prisoner as aforesaid, in his own name or in the name of any other Solicitor. R. S. O. 1887, c. 147, s. 23: 60 V. c. 15, Sched. A (32).

Solicitors in
prison not to
practise.

28. In case a Solicitor wilfully and knowingly acts as the professional agent of any person not duly qualified to act as a Solicitor, or suffers his name to be used in any such agency on account of or for the profit of an unqualified person, or sends any process to such person, or does any other act to enable such person to practise in any respect as a Solicitor, knowing him not to be duly qualified, and in case complaint is made thereof in a summary way to the High Court, and proof is made upon oath to the satisfaction of the Court, the Solicitor so offending may, in the discretion of the Court, be struck off the Roll and disabled from practising as a Solicitor; and the Court may also commit such unqualified person so having practised as aforesaid to any common gaol or prison for any term not exceeding one year. R. S. O. 1887, c. 147, s. 24.

Solicitors not
to act as
agents of
unqualified
persons.

29. The High Court may strike the name of any Solicitor off the Roll of Solicitors of the Court for default by him in payment of moneys received by him as a Solicitor. R. S. O. 1887, c. 147, s. 25.

strike So-
licitors off
the Roll.

Practice prohibited while holding certain offices.

30. No Solicitor shall practise in any Court in Ontario, either in his own name or by his partner, deputy or agent, or in the name of any other person, or otherwise, directly or indirectly, while he holds, possesses, practises, carries on or conducts any of the offices of Registrar of the Court of Appeal, Registrar of the High Court, Clerk of the Crown and Pleas, Local Registrar, Deputy Clerk of the Crown and Pleas, Clerk of a County Court, or Clerk of a Division Court, and every such person so practising, shall be subject to the forfeiture of such office, and shall, in addition thereto, be subject to a penalty of \$2,000 to be recovered in an action in the High Court, to the use of Her Majesty; but nothing herein contained shall extend to any Local Master or Deputy Registrar of the High Court, who is not a Deputy Clerk of the Crown and Pleas. R. S. O. 1887, c. 147, s. 27.

No solicitor to practise while engaged as a merchant.

31. No Solicitor shall practise in any of the Courts of Ontario during the time he is engaged in the business of a merchant, or connected by partnership, public or private, in purchasing or vending merchandise in the way of trade as a merchant, nor until twelve months after he has ceased to be such merchant or to be so engaged, or to be connected as aforesaid. R. S. O. 1887, c. 147, s. 28.

[For punishment for tampering with Jurors, see Chap. 61, sec. 177].

STRIKING A SOLICITOR OFF THE ROLL FOR DEFECT IN ARTICLES.

Limitation of time for striking off Roll for defect in articles.

32. Except in case of fraud, no person admitted and enrolled shall be struck off the Roll on account of any defect in the articles of clerkship, or in the registry thereof, or in his service thereunder, or in his admission and enrolment, unless application for striking him off the Roll is made within twelve months next after his admission and enrolment. R. S. O. 1887, c. 147, s. 29.

PROCEEDINGS IF STRUCK OFF THE ROLL.

When a Solicitor is struck off the Roll, Registrar to certify same to Secretary of the Society.

33. Where a Solicitor is struck off the Roll of the High Court, one of the Registrars of the High Court shall certify the same under his hand and the seal of the Court to the Secretary of the Law Society, stating whether such Solicitor was struck off at his own request or otherwise, and the Secretary shall attach the certificate to the certified copy of the Roll on which the name of such person stands, and shall, in the book to be kept by him as aforesaid, make a note opposite the name of such person of his having been struck off such Roll. R. S. O. 1887, c. 147, s. 30.

SOLICITOR'S COSTS.

Solicitors to deliver their bill one month

34. No action shall be brought for the recovery of fees, charges or disbursements, for business done by a Solicitor

as such, until one month after a bill thereof, subscribed with the proper hand of such Solicitor, his executor, administrator or assignee (or, in the case of a partnership, by one of the partners, either with his own name, or with the name or style of such partnership), has been delivered to the party to be charged therewith, or sent by the post to, or left for him at his counting-house, office of business, dwelling-house, or last known place of abode, or has been enclosed in or accompanied by a letter subscribed in like manner, referring to such bill. R. S. O. 1887, c. 147, s. 31.

35. Upon the application of the party chargeable by such bill within the month the High Court or a Judge thereof, or a Judge of a County Court shall, without money being brought into Court, refer the bill and the demand thereon to be taxed by the proper officer of any of the Courts in the County in which any of the business charged for in the bill was done, whether any of such business was done in a Court or not, and the Court or Judge making such reference shall restrain the bringing any action for such demand pending the reference. R. S. O. 1887, c. 147, s. 32: 60 V. c. 15, Sched. A (33).

36. In case no application is made within the month, then the Court or Judge, on the application of either party, may order a reference with such directions and conditions as he may deem proper; and may upon such terms as may be thought just restrain any action for such demand pending the reference. R. S. O. 1887, c. 147, s. 33.

37. No such reference shall be directed upon an application made by the party chargeable with such bill after a verdict or judgment has been obtained, or after twelve months from the time such bill was delivered to the party as aforesaid, except under special circumstances, to be proved to the satisfaction of the Court or Judge to whom the application for the reference is made. R. S. O. 1887, c. 147, s. 34: 60 V. c. 15, Sched. A (34).

38. In case either party to a reference, having due notice, refuses or neglects to attend the taxation, the officer to whom the reference is made may tax the bill *ex parte*. R. S. O. 1887, c. 147, s. 35: 58 V. c. 13, s. 37, part.

39. Every order for a reference shall direct the officer to whom the reference is made, to certify what, upon the reference, he finds to be due to or from either party in respect of such bill. R. S. O. 1887, c. 147, s. 36: 58 V. c. 13, s. 37, part.

40. The costs of the reference shall be in the discretion of the Court or Judge or of the taxing officer, subject to appeal, but such officer may certify specially any circumstances

before bringing action for costs.

Taxation of costs.

Court or Judge may order to be referred on application of either party.

No reference to be made on application of party charged after verdict or after 12 months from delivery of bill.

If either party does not attend reference, officer may tax bill *ex parte*.

Order to direct officer to tax costs of reference, and to certify what he finds due on taxation.

Officer may make special certificate. Costs on taxation in such case.

relating to the bill or taxation, and the Court or Judge may thereupon make such order as may be deemed right respecting the payment of the costs of the taxation. R. S. O. 1887, c. 147, s. 37; 58 V. c. 13, s. 37, part.

When special directions relative to costs of reference may be given.

41. In case the reference is made when the same is not authorized except under special circumstances, as hereinbefore provided, the Court or Judge, in making the same, may give any special directions relative to the costs of the reference. R. S. O. 1887, c. 147, s. 38.

Where no bill delivered, Court or Judge may order delivery of bill and of papers.

42. Where no bill has been delivered, sent or left as aforesaid, and where the bill if delivered, sent or left, might have been referred as aforesaid, any such Court or Judge may order the delivery of a bill, and may also order the delivery up of the deeds or papers in the possession, custody or power of the Solicitor, his assignee or representatives, in the same manner as has heretofore been done in cases where any such business had been transacted in the Court in which such order was made. R. S. O. 1887, c. 147, s. 39.

Not necessary in first instance in action on bill to prove contents of bill delivered.

43. In proving a compliance with this Act it shall not be necessary in the first instance to prove the contents of the bill delivered, sent or left, but it shall be sufficient to prove that a bill of fees, charges or disbursements subscribed in the manner aforesaid, or enclosed in or accompanied by such letter as aforesaid, was delivered, sent or left in manner aforesaid; but the other party may shew that the bill so delivered, sent or left, was not such a bill as constituted a *bona fide* compliance with this Act. R. S. O. 1887, c. 147, s. 40.

Judge may allow action for costs within the month if departure from Ontario apprehended.

44. A Judge of the High Court or a County Court Judge, on proof to his satisfaction that there is probable cause for believing that the party chargeable is about to quit Ontario, may authorize a Solicitor to commence an action for the recovery of his fees, charges or disbursements against the party chargeable therewith, although one month has not expired since the delivery of a bill as aforesaid. R. S. O. 1887, c. 147, s. 41.

When a party not being the principal pays a bill of costs, a taxation may be allowed.

45. Where any person not being chargeable as the principal party is liable to pay or has paid any bill either to the Solicitor, his assignee, or representative, or to the principal party entitled thereto, the person so paying, his assignee or representative, may make the like application for a reference thereof to taxation as the party chargeable therewith might himself have made, and in like manner, and the same proceedings shall be had thereupon, as if the application had been made by the party so chargeable. R. S. O. 1887, c. 147, s. 42.

46. In case such application is made when, under the provisions hereinbefore contained, a reference is not authorized to be made except under special circumstances, the Court or Judge to whom the application is made, may take into consideration any additional special circumstances applicable to the person making it, although such circumstances might not be applicable to the party chargeable with the bill, if he was the party making the application. R. S. O. 1887, c. 147, s. 43.

What special circumstances may be considered in such case

47. For the purpose of such reference upon the application of the person not being the party chargeable, or of a party interested as aforesaid, the Court or Judge may order the Solicitor, his assignee or representative, to deliver to the party making the application a copy of the bill upon payment of the costs of the copy. R. S. O. 1887, c. 147, s. 44.

Court or Judge may order the delivery of a copy of the bill.

48. No bill previously taxed shall be again referred, unless under the special circumstances of the case the Court or Judge to whom the application is made thinks fit to direct a re-taxation thereof. R. S. O. 1887, c. 147, s. 45.

When a bill may be re-taxed.

49. The payment of any such bill as aforesaid shall in no case preclude the Court or Judge to whom application is made from referring such bill for taxation, if the application is made within twelve months after payment, and if the special circumstances of the case in the opinion of the Court or Judge appear to require the same, upon such terms and subject to such directions as to the Court or Judge seem right. R. S. O. 1887, c. 147, s. 46.

Payment not to preclude taxation if applied for within a year.

50. In all cases in which a bill is referred to be taxed, the officer to whom the reference is made may request the proper officer of any other Court, to assist him in taxing any part of such bill, and the officer, so requested, shall thereupon tax the same, and shall have the same powers, and may receive the same fees in respect thereof, as upon a reference to him by the Court of which he is an officer, and he shall return the bill, with his opinion thereon, to the officer who so requests him to tax the same. R. S. O. 1887, c. 147, s. 47.

A taxing officer may request the assistance of any other Court

51. All applications made to refer any bill to be taxed, or for the delivery of a bill, or for the delivering up of bills, documents and papers, shall be made *In the matter of (the Solicitor)*; and upon the taxation of any such bill, the certificate of the officer by whom the bill is taxed shall, unless set aside or altered by order of a Judge, or by decree or order of Court, be final and conclusive as to the amount thereof, and payment of the amount certified to be due and directed to be paid may be enforced according to the practice of the Court in which the reference has been made. R. S. O. 1887, c. 147, s. 48.

be entitled.

JUDGES MAY MAKE RULES.

Judges of
Supreme Court
to make rules,
etc. Rev. Stat.
c. 51.

52.—(1) The Judges of the Supreme Court may, from time to time in accordance with the provisions of *The Judicature Act*, make such General Rules or Regulations, other than the Rules or Regulations hereinbefore referred to, as to them seem necessary and meet for carrying out the provisions of this Act. R. S. O. 1887, c. 147, s. 49.

(2) Such Rules may include Rules respecting business by Solicitors connected with sales, purchases, leases, mortgages, settlements and other matters of conveyancing. 58 V. c. 13, s. 38.

Principles of
remuneration.
Imp. Act.
44-45 V. c.
44, s. 4.

53.—(1) Any such general rule may, as regards the mode of remuneration, prescribe that it shall be according to a scale of rates of commission or per-centage, varying or not in different classes of business; or by a gross sum; or by a fixed sum for each document prepared or perused, without regard to length; or in any other mode, or partly in one mode and partly in another, or others; and may, as regards the amount of the remuneration, regulate the same with reference to all or any of the following among other considerations; namely:—the position of the party for whom the Solicitor is concerned in any business, that is, whether as vendor or as purchaser, lessor or lessee, mortgagor or mortgagee, and the like; the place, district, and circumstances at or in which the business or part thereof is transacted; the amount of the capital money or of the rent to which the business relates; the skill, labour and responsibility involved therein on the part of the Solicitor; the number and importance of the documents prepared or perused, without regard to length; and the average or ordinary remuneration obtained by Solicitors in like business prior to the 25th day of March, 1886.

Effect of order
as to taxation.

(2) As long as such general rule is in operation, the taxation of bills of costs of Solicitors shall be regulated thereby. R. S. O. 1887, c. 147, s. 50.

Power for
solicitor and
client to agree
on form and
amount of
remuneration.
Imp. Act.
44-45 V.
c. 44, s. 8.

54.—(1) With respect to any business to which the preceding section relates, whether any general rule under this Act is in operation or not, it shall be competent (subject to the provisions hereinafter mentioned) for a Solicitor to make an agreement with his client, and for a client to make an agreement with his Solicitor, before or after or in the course of the transaction of such business, for the remuneration of the Solicitor, to such amount and in such manner as the Solicitor and the client think fit, either by a gross sum, or by commission or per-centage, or by salary, or otherwise; and it shall be competent for the Solicitor to accept from the client, and for the client to give to the Solicitor, remuneration accordingly.

(2) The agreement shall be in writing, signed by the person to be bound thereby or by his agent in that behalf.

(3) The agreement may, if the Solicitor and the client think fit, be made on the terms that the amount of the remuneration therein stipulated for either shall include or shall not include all or any disbursements made by the Solicitor in respect of searches, plans, travelling fees, or other matters.

(4) The agreement may be sued and recovered on, or impeached and set aside, in the like manner and on the like grounds as an agreement not relating to the remuneration of a Solicitor; and if, under any order for taxation of costs, such agreement being relied upon by the Solicitor shall be objected to by the client as unfair and unreasonable, the taxing master or officer of the Court may inquire into the facts, and certify the same to the Court; and if, upon such certificate, it shall appear to the Court or Judge that just cause has been shewn either for cancelling the agreement, or for reducing the amount payable under the same, the Court or Judge shall have power to order such cancellation or reduction, and to give all such directions necessary or proper for the purpose of carrying the order into effect, or otherwise consequent thereon, as to the Court or Judge may seem fit.

(5) "Client," for the purposes of this section, shall include any person who, as a principal, or on behalf of another or as trustee or executor or in any other capacity, has power, express or implied, to retain or employ, and retains or employs, or is about to retain or employ, a Solicitor, and any person for the time being liable to pay to a Solicitor for his services any costs, remuneration, charges, expenses, or disbursements. Imp. Act, 44-45 V. c. 44, s. 1. "Client," meaning of.

55. In the case of any special difficulty for which the general rules do not apply the taxing officer in taxing any bill for preparing and entering any deed under Chapter 123 of these Revised Statutes, in estimating the proper sum to be charged therefor, shall consider not the length of such deed, but the skill and labour employed and responsibility incurred in the preparation thereof. R. S. O. 1887, c. 147, s. 52.

SOLICITORS AS OFFICERS OF COURT.

56. Nothing in this Act contained shall interfere with the present practice as to the admission of Solicitors, nor with the jurisdiction over them as officers of Court. R. S. O. 1887, c. 147, s. 53. Act not to affect practice as to admission.

5. NOTARIES PUBLIC.

CHAPTER 175.

An Act respecting Notaries Public.

I HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
 as follows:—

The Lieutenant
 and Governor
 may appoint
 Notaries.

1. The Lieutenant-Governor may, under his hand and seal at arms, from time to time, subject to section 7, appoint such persons as he thinks fit Notaries Public for this Province. R. S. O. 1887, c. 153, s. 1.

Powers of
 Notaries.

2. Every such Notary shall have, use and exercise the power of drawing, passing, keeping and issuing all deeds and contracts, charter-parties and other mercantile transactions in this Province, and also of attesting all commercial instruments that may be brought before him for public protestation, and otherwise of acting as is usual in the office of Notary, and may demand receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the said calling of Notary Public during pleasure. R. S. O. 1887, c. 153, s. 2.

Notaries to
 have powers
 of Commissioners under
 Rev. Stat.
 c. 74.

3. Every Notary Public having authority in Ontario, shall have the same powers as a commissioner appointed under *The Act respecting Commissioners for taking Affidavits and Recognizances*. R. S. O. 1887, c. 153, s. 3.

Power to take
 affidavits, etc.,
 in all Courts,
 or in matters
 pending before
 a Judge.

4. Every Notary Public may in any part of Ontario take and receive all such affidavits and affirmations (in cases where by law affirmation is allowed) as any person desires to make in or concerning any matter or thing depending or in anywise concerning any proceeding in the High Court, or in the Court of Appeal, and in any County or Division Court, or concerning any application made or depending before a Judge or Judges of any of said Courts, and in or concerning any application or matter made or pending before any Judge of any Court in this Province in which, by any statute now or hereafter in force in Ontario, such Judge is authorized to make any order although such application or matter is not made or pending in any Court. R. S. O. 1887, c. 153, s. 4.

Affidavits to
 be of same
 force as if
 taken in open
 court.

5. Every Notary Public shall be deemed an officer of the High Court and of the Court of Appeal, and all affidavits and

affirmations taken shall be of the same force as if taken before a Commissioner aforesaid, and may be read and made use of as other affidavits and affirmations taken in Court. R. S. O. 1887, c. 153, s. 5.

6. Any Notary Public misconducting himself in respect of the powers conferred upon him by the preceding three sections of this Act or by section 46 of *The Registry Act* shall be subject to the same penalty or punishment as a Commissioner in and for the High Court, and any power thereby conferred upon a Notary Public may be revoked in the same way and manner and to the same extent as if such power had been conferred upon him under any of the provisions of *The Act respecting Commissioners for taking Affidavits and Recognizances*. R. S. O. 1887 c. 153, s. 6.

Liability for misconduct.

Rev. Stat. c. 136.

Rev. Stat. c. 74.

7.—(1) Any person other than a barrister or solicitor duly admitted as such in this Province, desirous of being appointed as a Notary Public, shall be subject to examination in regard to his qualification for the said office, by the County Court Judge of the county in which he resides, or by such other person as may from time to time be appointed in that behalf by the Lieutenant-Governor; and no such person shall be appointed a Notary Public without a certificate from the said County Court Judge, or such other person, that he has examined the applicant and finds him qualified for the office, and that in his opinion a Notary Public is needed for the public convenience in the place where the applicant resides and intends to carry on business.

Examination as to qualification of persons desirous of being appointed Notaries Public.

(2) The Lieutenant-Governor in Council, may from time to time make regulations for such examination and certificate; and the Judge or other person examining shall be entitled to receive from the person examined a fee of \$5 for every examination. R. S. O. 1887, c. 153, s. 7.

Regulations.

Fee to examiner.

8.—(1) In any case in which under the authority of any Act of the Province of Ontario a Notary Public is authorized to administer oaths or to take any affidavit or statutory declaration within Ontario, it shall not be necessary to the validity of such oath, affidavit or declaration that the Notary Public before whom the same is taken shall affix his seal thereto, and every such oath, affidavit or declaration signed by a Notary Public who has not affixed his seal shall be receivable in evidence as to the facts therein deposed to, and for all other purposes, in the same manner and to the same extent as if the seal of the Notary Public had been affixed thereto.

Notary public need not affix seal on affidavits, etc.

(2) This section shall apply to oaths, affidavits and declarations made or taken as well before as after the passing of this Act, but nothing herein contained shall affect the question of costs in any action or other proceeding pending on the 13th day of April, 1897. 60 V. c. 14, s. 76.

Application of section.

6. MEDICAL PROFESSION.

CHAPTER 176.

An Act respecting the Profession of Medicine and Surgery.

SHORT TITLE, s. 1.

COLLEGE OF PHYSICIANS AND SURGEONS CONTINUED, s. 2.

WHO SHALL BE MEMBERS OF, ss. 3, 4.
COUNCIL OF, ss. 5-7.

Voters at elections to the council, ss. 8-9.

Disputed elections, ss. 10, 11.

Meetings—procedure at, s. 12.

Payment of members, s. 13.

Appointment of officers, etc., ss. 14, 15.

DIVISION ASSOCIATIONS, s. 16.

MEDICAL EDUCATION, ss. 17-20.

REGISTRATION OF QUALIFIED PRACTITIONERS, ss. 21-42.

Examination of candidates, ss. 28-30.

Registration of higher degrees obtained by persons already registered, ss. 31, 32.

Erasing and restoring registered names, ss. 33-39.

Rights of registered practitioners, ss. 40, 41.

Publication of register, s. 42.

ANNUAL FEES AND CERTIFICATES, ss. 43-45.

OFFENCES AND PENALTIES:—

Omitting to register, s. 46.

Falsification of register, s. 47.

Procuring fraudulent registration, s. 48.

Practising or professing to practice without being registered, s. 49.

Falsely pretending to be a physician, s. 50.

Falsely using a title implying registration, s. 51.

Unregistered persons not entitled to recover charges, s. 52.

Unregistered persons disqualified from receiving certain appointments, s. 53.

Certificates of such persons invalid, s. 54.

Prosecutions, ss. 55, 56.

Limitation of prosecutions, s. 59.

Application of penalties, s. 61.

EVIDENCE OF REGISTRATION, ss. 57, 58.

STAY OF PROCEEDINGS BY COUNCIL, s. 60.

APPLICATION OF COUNCIL FUNDS, s. 62.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Ontario Medical Act.*"
R. S. O. 1887, c. 148, s. 1.

College of Physicians and Surgeons continued.

2. The medical profession of Ontario heretofore incorporated under the name and style of "The College of Physicians and Surgeons of Ontario," shall be and shall be deemed to have been from the date of its first establishment a body corporate

by the name aforesaid, having perpetual succession and a common seal, with power to acquire, hold and dispose of chattel property and real estate for the purposes of this Act, and to sue and be sued in the manner usual with such corporations. R. S. O. 1887, c. 148, s. 2.

3. Every person registered according to the provisions of the Act passed in the twenty-ninth year of the reign of Her Majesty, chaptered 34, of the Act passed in the thirty-second year of the reign of Her said Majesty, chaptered 45, of the Act passed in the thirty-seventh year of the reign of Her said Majesty chaptered 30, of chapter 142 of the Revised Statutes of Ontario, 1877, or of the Act passed in the fifty-fourth year of the reign of Her Majesty, chaptered 27, or of any Act amending or consolidating any of the said Acts shall be a member of the said College of Physicians and Surgeons of Ontario. Members thereof under former Acts. R. S. O. 1887, c. 148, s. 3; 54 V. c. 27, s. 1.

4. Every person hereafter registered under the provisions of this Act shall also be a member of the said College. Under Act. R. S. O. 1887, c. 148, s. 4.

5. There shall be a council of the said College of Physicians and Surgeons of Ontario to be appointed in the manner herein after provided for in this Act, and hereinafter referred to as "The Council." Council of the College of Physicians and Surgeons. R. S. O. 1887, c. 148, s. 5.

6.—(1) The council shall be composed of the following persons :— How composed.

(a) One member to be chosen from each of the Universities, Colleges and other bodies hereinafter designated, to wit: The University of Toronto, the Queen's University and College of Kingston, the University of Victoria College, the University of Trinity College, the Royal College of Physicians and Surgeons, Kingston, the Toronto School of Medicine, Trinity Medical School, the Ottawa University, Regiopolis College, the Western University, and of every other University, College or body in the Province now by law authorized, or which may be hereafter authorized to grant degrees in medicine and surgery, and which establishes and maintains to the satisfaction of the College of Physicians and Surgeons of Ontario, a Medical Faculty in connection therewith. Representatives of certain Colleges.

(b) Five members to be duly elected by the licensed practitioners in homœopathy who have been registered under this Act, or under the provisions in that behalf of any of the Acts mentioned in section 3 of this Act; Representatives of Homœopathy.

(c) Seventeen members to be elected in the manner hereinafter provided from amongst and by the registered members of the profession other than those mentioned in the preceding clauses of this section. Elected members.

No teacher, etc., in College to be a member except as representative of his College.

Members of the Council to be registered practitioners.

Residence in division.

(2) No teacher, professor or lecturer of any of the bodies in this section mentioned shall hold a seat in the Council except as a representative of the body to which he belongs.

(3) All members of the council, representing the bodies aforesaid, shall be practitioners duly registered under this Act or the Acts mentioned in section 3 of this Act.

(4) The seventeen members to be elected as aforesaid shall be residents of the several territorial divisions for which they are elected, and any member who, during the term for which he was elected, ceases to reside in the division for which he was elected shall thereby vacate his office as such member.

Elections, how to be conducted.

(5) One member shall be so elected from each of the territorial divisions mentioned in Schedule A to this Act by the registered practitioners of medicine resident in such division; and the manner of holding such election shall, with respect to the time thereof and the taking the votes therefor, be determined by a by-law to be passed by the Council; and in default of such by-law being made, then the Lieutenant-Governor shall prescribe the time and manner of holding such election. R. S. O. 1887, c. 148, s. 6; 56 V. c. 27, s. 2 (1-2).

Membership for five years.

Death or resignation provided for.

7.—(1) The members of the Council shall be elected or appointed as the case may be, for a period of four years; but any member may resign his appointment at any time by letter addressed to the President or Registrar of the Council; and upon the death or resignation of any member of the Council, it shall be the duty of the Registrar forthwith to notify the body in respect to which the vacancy has occurred, of the death or resignation, and such body shall have the power to nominate another duly qualified person to fill the vacancy; or if the vacancy be caused by the death or resignation of any member elected from a territorial division, or by his becoming disqualified owing to his having ceased to reside therein, or in case a new election is requisite on account of a decision of the Judge upon a contested election, the Registrar shall forthwith cause a new election to be held in such territorial division, and the election shall be conducted in accordance with the by-laws and regulations of the Council, but it shall be lawful for the council during such vacancy to exercise the powers hereinafter mentioned. R. S. O. 1887, c. 148, s. 7 (1); 56 V. c. 27, s. 2 (3); 56 V. c. 27, s. 4; 60 V. c. 3, s. 3.

Vacancies in respect of Homœopathic members of the Council.

(2) In the event of the death or resignation of any member of the Council representing the practitioners of the homœopathic system of medicine, the remaining representatives of the homœopathic system in the Council may fill such vacancy by selecting from amongst the duly registered practitioners in homœopathy a person to fill the said vacancy. R. S. O. 1887, c. 148, s. 7 (2).

Notice of date for nomination.

(3) The Registrar shall, not more than 60 nor less than 40 days before the time for receiving nominations for any election

under this Act, notify, by letter or post card, every registered medical practitioner in the Province of the date of receiving such nominations. 56 V. c. 27, s. 3 (3).

8. The persons entitled to vote under this Act at any election shall be all duly registered practitioners. R. S. O. 1887, c. 148, s. 8. Persons entitled to vote

9.—(1) Any member of the College of Physicians and Surgeons of Ontario, may have his name transferred from one class of voters to any other class on his presenting to the Registrar a certificate duly signed by the member or members of the Board of Examiners appointed by the Council to examine candidates on the subjects specified in this Act, as peculiar to each school of medicine, testifying that the member so applying to have his name so transferred has shewn a sufficient knowledge of the system of medicine with which he desires to connect himself, to entitle him to be admitted to the class to which he desires to be transferred and on being so admitted he shall be entitled to vote in that class only. Transfer to different voters' list.

(2) No member shall be entitled to return to the class from which he has been so transferred without the sanction of the Council; but no member shall at any time be entitled to vote in more than one class of the voters who, in accordance with the provisions of this Act, vote in the election of the members of the Council; and there shall be payable to the Registrar for such transfer a fee of \$2. R. S. O. 1887, c. 148, s. 9.

10. In case of any doubt or dispute as to the legality of the election of any member of the council, it shall be lawful for the council to hold an inquiry and decide who is the legally elected member of the council; and the person whom they decide to have been elected shall be and be deemed to be the member legally elected; and if the election is found to have been illegal the council shall have power to order a new election. R. S. O. 1887, c. 148, s. 10. Disputed elections, how dealt with.

11.—(1) In case the validity of the election of any member of the Council is contested, the same shall be tried by the senior or other officiating Judge of the County or District Court of the County or District in which the person whose election is complained of resides, and the proceedings thereon shall *mutatis mutandis* be the same (as nearly as may be) as in the case of municipal elections under the sections of *The Revised Municipal Act*, relating to controverted elections, but no security by the complainant shall be necessary. Controverted elections.

(2) Any person qualified to vote at the election complained of may be the relator in proceedings under this section. Who may be relator.

(3) The decision of the said Judge shall be final. 56 V. c. 27, s. 4.

Meetings of
the Council.

12.—(1) The Council may make such rules and regulations as to the times and places of meetings of the Council, and the mode of summoning the same, as to the Council seems expedient; which rules and regulations shall remain in force till altered at any subsequent meeting; and in the absence of any rule or regulation as to the summoning of meetings of the Council it shall be lawful for the President thereof or, in the event of his absence or death, for the Registrar to summon the same at such time and place as to him seems fit, by circular letter to be mailed to each member.

Absence of
President.

(2) In the event of the absence of the President from any meeting, the vice-president or, in his absence, some other member to be chosen from among the members present shall act as President.

Majority.

(3) All the acts of the Council shall be decided by the majority of the members present, not being less than nine in number.

Voting.

(4) At all meetings the President for the time being shall have a casting vote. R. S. O. 1887, c. 148, s. 11.

Payment to
members of
the Council.

13. There shall be paid to the members of the Council such fees for attendance, and such reasonable travelling expenses, as may from time to time be fixed by by-law passed by the said Council. R. S. O. 1887, c. 148, s. 12.

Appointment
of officers.

14. The Council shall annually appoint a President, Vice-president, Registrar, Treasurer, and such other officers as may from time to time be necessary for giving effect to this Act, who shall hold office during the pleasure of the Council; and the said Council shall have power to fix by by-law, or from time to time, the salaries or fees to be paid to such officers, and to the Board of Examiners hereinafter mentioned. R. S. O. 1887, c. 148, s. 13.

Salaries.

Executive
Committee.

15. The council shall appoint annually from among its members an "Executive Committee," to take cognizance of, and action upon, all such matters as may be delegated to it by the Council or as may require immediate interference or attention between the adjournment of the Council and its next meeting; and all such acts shall be valid only till the next ensuing meeting of the Council: but the committee shall have no power to alter, repeal or suspend any by-law of the Council, R. S. O. 1887, c. 148, s. 14.

DIVISION ASSOCIATIONS.

Territorial di-
vision medical
associations.

16. In each of the territorial divisions described in Schedule A of this Act there may be established a territorial division medical association, which may be called "The Division Association" of such division; every member of the College of Phy-

sicians and Surgeons of Ontario, resident within the said territorial division, shall be a member; and the representative in the council shall be *ex officio* chairman of such Division Association. R. S. O. 1887, c. 148, s. 15.

MEDICAL EDUCATION.

17.—(1) The Council shall have power and authority to appoint an examiner or examiners for the admission of all students to the matriculation or preliminary examination, and to make by-laws and regulations for determining the admission and enrolment of students; but any change in the curriculum of studies fixed by the Council shall not come into effect until one year after such change is made.

Matriculation
or preliminary
examinations.

(2) Until a Homœopathic Medical College for teaching purposes is established in Ontario, candidates wishing to be registered as homœopathists shall pass the matriculation examination established under this Act, as the preliminary examination for all students in medicine, and shall present evidence of having spent the full period of study required by the curriculum of the Council, under the supervision of a duly registered homœopathic practitioner.

Homœopath-
ists.

(3) Such candidates must also have complied with the full curriculum of studies, prescribed from time to time by the Council for all medical students, but the full time of attendance upon lectures and hospitals required by the curriculum of the Council may be spent in such Homœopathic Medical Colleges in the United States or Europe as may be recognized by a majority of the homœopathic members of the Council; but in all Homœopathic Colleges, where the winter course of lectures is only of four months' duration, certified tickets of attendance on one such course shall be held to be equivalent to two-thirds of one six months' course, as required by the Council; and when such teaching body has been established in Ontario it shall be optional for such candidates to pursue in part or in full the required curriculum in Ontario. R. S. O. 1887, c. 148, s. 17.

18. The council shall from time to time, as it may deem expedient, enact by-laws as to the terms upon which it will receive the matriculation and other certificates of Colleges and other institutions not in the Province of Ontario. R. S. O. 1887, c. 148, s. 18.

Council may
recognize
certificates of
foreign
institutions.

19.—(1) Graduates in Arts in any university in Her Majesty's Dominions shall not be required to pass the preliminary examination.

Graduates of
universities
in Her Majes-
ty's dominions

(2) Where the Council adopts a lower standard for matriculation than graduation in arts, such standard shall conform to the curriculum of the universities in the Province for the academic year to which such standard applies, or to the course of study prescribed for junior or senior matriculation in arts or to the

examinations prescribed by the Department of Education for the leaving examinations of high schools. 54 V. c. 26, s. 1.

Curriculum
of studies.

20. The Council shall have power and authority to fix and determine from time to time a curriculum of studies to be pursued by the students, and such curriculum of studies shall be observed and taught by all bodies referred to in section 6 of this Act. R. S. O. 1887, c. 148, s. 20.

MEDICAL REGISTRATION.

Registration.

21. The Council shall cause to be kept by the Registrar, a book or register, in which shall be entered the name of every person registered according to the provisions of this Act or of the Acts mentioned in section 3 of this Act; and, from time to time the names of all persons who have complied with the enactments hereinafter contained, and with the rules and regulations made or to be made by the Council respecting the qualifications to be required from practitioners of medicine, surgery and midwifery in this Province; and those persons only whose names are inscribed in the book or register above mentioned, shall be deemed to be qualified and licensed to practise medicine, surgery or midwifery in this Province, except as hereinafter provided, and such book or register shall at all times be open, and subject to inspection by any duly registered practitioner in Ontario, or by any other person. R. S. O. 1887, c. 148, s. 21.

Inspection of
register.

Registrar to
keep register
correct.

22. The Registrar shall keep the register correct and in accordance with this Act, and the orders and regulations of the Council, and shall erase the names of all registered persons who shall have died, and he shall from time to time make the necessary alterations in the addresses and qualifications of the persons registered under this Act, and to enable the Registrar duly to fulfil the duties imposed upon him, he may write a letter to any registered person, addressed to such person according to his address on the register, for the purpose of inquiring whether such person has ceased to practise or has changed his residence, and if no answer shall be returned to such letter within the period of six months from the mailing thereof the Registrar may erase the name of such person from the register; Provided always that such name shall be restored to the register on compliance with the other provisions of this Act. 54 V. c. 26, s. 9.

As to registra-
tion of persons
from Great
Britain and
Ireland.

23.—(1) It shall be optional for the Council to admit to registration all such persons as are duly registered in the medical register of Great Britain, or are otherwise authorized to practise medicine, surgery and midwifery in the United Kingdom of Great Britain and Ireland, upon such terms as the Council may deem expedient

Person in
practice before
1850.

(2) Any person who was actually practising medicine, surgery or midwifery or any of them in Ontario, prior to the 1st of January, 1850, and who has attended one course of

lectures at any recognized medical school, shall, upon such proof as the Council may require, be entitled to registration under this Act.

(3) Any person who was actually practising medicine, surgery or midwifery according to the principles of Homœopathy before the 1st day of January, 1850, and for the six years preceding the 24th day of March, 1874, in Ontario, may in the discretion of the representatives of the homœopathic system of medicine be admitted to registration under this Act. R. S. O. 1887, c. 148, s. 23. Homœopaths in practice before 1850.

(4) Any legally qualified medical practitioner according to the laws of the Province of Manitoba, who was residing and practising in the territory now constituting the District of Rainy River at and before the date of the Order of Her Majesty in Council with respect to the westerly boundary of this Province, and who on the 4th day of May, 1894, still resided in the said district shall, upon production of a certificate of qualification to practise medical surgery and midwifery from "The College of Physicians and Surgeons of Manitoba," be entitled to be registered as a practitioner of medicine, surgery and midwifery in the said district without the payment of any fee for being registered or undergoing an examination, but subject to the other conditions and regulations applicable to the medical profession in Ontario. 54 V. c. 27, s. 1. Manitoba practitioners in Rainy River before settlement of boundary to be entitled to registration.

24. Every person who possesses any one or more of the qualifications described in Schedule B to this Act, attained prior to the 23rd day of July, 1870, shall, on payment of a fee to be fixed by by-law of the council, not exceeding \$10, be entitled to be registered on producing to the registrar the document conferring or evidencing the qualification or each of the qualifications in respect whereof he seeks to be so registered, or upon transmitting by post to the registrar, information of his name and address, and evidence of the qualification or qualifications in respect whereof he seeks to be registered, and of the time or times at which the same was or were respectively attained : but no one registered under the Acts mentioned in section 3 of this Act shall be liable to pay any fee for being registered under this Act. R. S. O. 1887, c. 148, s. 24. Qualification for, and mode of registry.

25. Every person desirous of being registered under the provisions of this Act, and who had not become possessed of any one of the qualifications in Schedule B mentioned, before the 23rd day of July, 1870, shall, before being entitled to registration, present himself before the Board of Examiners, mentioned in section 28, for examination as to his knowledge and skill for the efficient practice of his profession; and upon passing the examination required, and proving to the satisfaction of the Board of Examiners that he has complied with the rules and regulations made by the Council, and on the payment of such fees as the Council may by general by law establish, such person shall be entitled to be registered, and, in virtue of such registration, to practise medicine, surgery and midwifery in this Province. R. S. O. 1887, c. 148, s. 25. Examination before registration, when necessary.

Registration
of persons
from other
Provinces of
the Dominion.

26. When and as soon as it appears that there has been established a central examining board, similar to that constituted by this Act, or an institution duly recognized by the Legislature of any of the other provinces of the Dominion of Canada, as the sole examining body for the purpose of granting certificates of qualification, and wherein the curriculum is equal to that established in Ontario, the holder of any such certificate shall upon due proof be entitled to re-registration by the Council of Ontario, if the same privilege is accorded by such Examining Board or Institution to those holding certificates in Ontario. R. S. O. 1887, c. 148, s. 26.

Board of
Examiners.

27. At the annual meeting of the Council in each year, there shall be elected by the members of the Council a "Board of Examiners," whose duty it shall be to examine, at least once in each year, all candidates for registration in accordance with the by-laws, rules and regulations of the Council; such examinations to be held at Toronto or Kingston at such times and in such manner as the Council by by-law directs. R. S. O. 1887, c. 148, s. 28.

Examiners,
how appoint-
ed.

28. The Board of Examiners appointed under the preceding section shall be composed as follows:—one member from each of the teaching bodies now existing, referred to in section 6 of this Act, and one from every other School of Medicine which may be hereafter organized in connection with any University or College which is empowered by law to grant medical or surgical diplomas; and a number not less than six members to be chosen from among those members of the College of Physicians and Surgeons of Ontario, who are unconnected with any of the above teaching bodies. R. S. O. 1887, c. 148, s. 29; 56 V. c. 27, s. 5.

Examinations
of Homœo-
paths.

29. A candidate who, at the time of his examination, signifies his wish to be registered as a homœopathic practitioner, shall not be required to pass an examination in either *materia medica*, or therapeutics, or in the theory or practice of physic, or in surgery or midwifery, except the operative practical parts thereof, before any examiners other than those approved of by the representatives in the Council of the homœopathic system. R. S. O. 1887, c. 148, s. 30.

Power of
Council to
make rules,
etc.

30. The Council shall from time to time as occasion may require, make orders, regulations, or by-laws for regulating the registers to be kept under this Act, and the fees to be paid for registration, and shall from time to time make rules and regulations for the guidance of the Board of Examiners, and may prescribe the subjects and modes of the examinations, the time and place of holding the same, and generally may make all such rules and regulations in respect of such examinations not contrary to the provisions of this Act, as they deem expedient and necessary. R. S. O. 1887, c. 148, s. 31.

31. Every person registered under this Act who obtains any higher degree or any qualification other than the qualification in respect of which he has been registered, shall, on the payment of such fees as the Council appoints, be entitled to have such higher degree or additional qualification inserted in the register in substitution for, or in addition to, the qualification previously registered. R. S. O. 1887, c. 148, s. 32.

32.—(1) No qualification shall be entered on the register either on the first registration or by way of addition to a registered name unless the Registrar is satisfied by proper evidence that the person claiming is entitled to it; and any appeal from the decision of the Registrar may be decided by the Council; and any entry proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be erased from the register by an order in writing of the Council.

(2) In the event of the Registrar being dissatisfied with the evidence adduced by the person claiming to be registered, he shall have the power, subject to an appeal to the Council, of refusing registration until the person claiming to be registered has furnished such evidence duly attested by oath or affirmation, before the Judge of the County Court of any county. R. S. O. 1887, c. 148, s. 33.

33.—(1) Where any registered medical practitioner has either before or after the passing of this Act, and either before or after he is registered been convicted either in Her Majesty's dominions or elsewhere of an offence, which if committed in Canada, would be a felony or misdemeanour, or been guilty of any infamous or disgraceful conduct in a professional respect, such practitioner shall be liable to have his name erased from the register.

(2) The Council may, and upon the application of any four registered medical practitioners shall, cause enquiry to be made into the case of a person alleged to be liable to have his name erased under this section and on proof of such conviction or of such infamous or disgraceful conduct, shall cause the name of such person to be erased from the register: Provided, that the name of a person shall not be erased under this section on account of his adopting, or refraining from adopting the practice of any particular theory of medicine or surgery, nor on account of a conviction for a political offence out of Her Majesty's dominions, nor on account of a conviction for an offence which though within the provisions of this section ought not, either from the trivial nature of the offence, or from the circumstances under which it was committed, to disqualify a person from practising medicine or surgery.

(3) The Council may order to be paid out of any funds at their disposal such costs as to them may seem just to any per-

son against whom any complaint has been made which when finally determined, is found to have been frivolous and vexatious. R. S. O. 1887, c. 148, s. 34.

Restoring
names to
register.

34.—(1) Where the Council directs the erasure from the register of the name of any person, or of any other entry, the name of that person or that entry shall not be again entered on the register, except by the direction of the Council, or by the order of a Divisional Court of the High Court of Justice. R. S. O. 1887, c. 148, s. 35, (1). 54 V. c. 26, s. 3.

(2) If the Council think fit in any case, they may direct the registrar to restore to the register any name or entry erased therefrom either without fee or on payment of such fee, not exceeding the registration fee, as the Council may, from time to time, fix; and the Registrar shall restore the same accordingly. R. S. O. 1887, c. 148, s. 35 (2).

Committee for
erasing and
restoring
names.

35.—(1) The Council shall for the purpose of exercising in any case the powers of erasing from and of restoring to the register the name of any person or any entry, ascertain the facts of such case by a committee of their own body not exceeding five in number, of whom the quorum shall be not less than three, and a written report of the committee may be acted upon for the purpose of the exercise of the said powers by the Council. R. S. O. 1887, c. 148, s. 36 (1); 54 V. c. 26, s. 4.

(2) The Council shall from time to time appoint, and shall always maintain a committee for the purposes of this section, and subject to the provisions of this section, may from time to time determine the constitution, and the number and tenure of office of the members of the committee.

Procedure.

(3) The committee shall meet, from time to time, for the despatch of business and subject to the provisions of this section, and of any regulations from time to time made by the council, may regulate the summoning, notice, place, management and adjournment of such meetings, the appointment of a chairman, the mode of deciding questions, and generally the transaction and management of business including the quorum, and if there is a quorum the committee may act notwithstanding any vacancy in their body. In case of any vacancy the committee may appoint a member of the council to fill the vacancy until the next meeting of the Council.

(4) A committee under this section may, for the purpose of the execution of their duties under this Act, employ, at the expense of the Council such legal, or other assessor or assistant as the committee may think necessary or proper; and the person whose conduct is the subject of enquiry shall also have the right to be represented by counsel; Provided that all meetings of any such committee when held for taking evidence or

otherwise ascertaining the facts shall be held within the county where the member complained of resides or the alleged offence was committed.

(5) At least two weeks before the first meeting of the committee to be held for taking the evidence or otherwise ascertaining the facts, a notice shall be served upon the person whose conduct is the subject of inquiry, and such notice shall embody a copy of the charges made against him or a statement of the subject matter of the inquiry, and shall also specify the time and place of such meeting; the testimony of witnesses shall be taken under oath, which the chairman or acting chairman of the committee is hereby authorized to administer, and there shall be full right to cross-examine all witnesses called and to call evidence in defence and reply; in the event of the non-attendance of the person whose conduct is the subject of such inquiry, the committee may, upon proof of personal service of the notice aforesaid in accordance with the provisions of this section, which proof of service may be by statutory declaration, proceed with the subject matter of the inquiry in his absence and may make their report of the facts without further notice to such person. R. S. O. 1887, c. 148, s. 36, (2-5).

36. No action shall be brought against the Council or the committee for anything done *bona fide* under this Act, notwithstanding any want of form in the proceedings, but any person whose name has been ordered to be erased from the register may appeal from the decision of the council to a Divisional Court of the High Court, at any time within six months from the date of the order for such erasure, and the Court may, upon the hearing of the appeal, make such order as to the restoration of the name so erased or confirming such erasure, or for further inquiry by the committee or Council into the facts of the case, and as to costs as to the Court shall seem right in the premises. R. S. O. 1887, c. 148, s. 37. 54 V. c. 26, s. 5.

Appeal from committee.

37. The appeal may be by motion, notice of which shall be served upon the Registrar, and shall be founded upon a copy of the proceedings before the committee—the evidence taken, the committee's report and the order of the council in the matter—certified by the Registrar, and the Registrar shall, upon the request of any person desiring to appeal, and upon payment of the sum of five cents per folio furnish to any such person a certified copy of all proceedings, reports, orders and papers, upon which the committee have acted in making the order complained of. R. S. O. 1887, c. 148, s. 38. 54 V. c. 26, s. 6.

Procedure.

38. Upon any inquiry under section 33 of this Act either party may without leave or order obtain and issue from the High Court of Justice for Ontario a subpoena commanding the

Evidence before committee for erasing and restoring names.

attendance and examination of any witness and also the production of any documents, the production of which could be compelled at the trial of an action to and before the committee and at the time and place mentioned in the subpoena; and disobedience to the subpoena shall be deemed a contempt of court, but the person whose attendance is required shall be entitled to the like conduct money and payment of expenses and for loss of time as upon attendance at a trial. 54 V. c. 26, s. 7 part; 58 V. c. 12, s. 63.

Costs of
proceedings.

39. In case of the erasure of a name under the preceding provisions of this Act the Council may direct the costs of and incidental to such erasure to be paid by the party whose name has been directed to be erased, which costs shall first be taxed by one of the taxing officers of the High Court upon whose certificate execution may issue for the collection of such costs by the college, out of the High Court as upon a judgment in an action in such Court. 54 V. c. 26, s. 7 part. 58 V. c. 12, s. 63.

Rights of Registered Practitioners.

Rights of
registered
persons.

40. Every person registered under the provisions of this Act, shall be entitled according to his qualification or qualifications to practise medicine, surgery or midwifery, or any of them as the case may be, in the Province of Ontario, and to demand and recover in any Court reasonable charges for professional aid, advice and visits and the cost of any medicine or other medical or surgical appliances rendered or supplied by him to his patients. R. S. O. 1887, c. 148, s. 39; 59 V. c. 18, s. 11.

Limitation of
actions for
negligence.

41. No duly registered member of the College of Physicians and Surgeons of Ontario, shall be liable to any action for negligence or malpractice, by reason of professional services requested or rendered, unless such action be commenced within one year from the date when in the matter complained of such professional services terminated. R. S. O. 1887, c. 148, s. 40.

Publication of Register.

Register to be
printed and
published.

42.—(1) The Registrar of the Council shall from time to time under the direction of the Council cause to be printed and published a correct register of the names in alphabetical order according to the surnames, with the respective residences in the form set forth in Schedule C to this Act, or to the like effect, together with the medical titles, diplomas and qualifications with the dates thereof, of all persons appearing on the register as existing on the day of publication; and such register shall be called "The Ontario Medical Register;" and a copy of such register for the time being pur-

porting to be printed and published as aforesaid, shall be *prima facie* evidence in all Courts, and before all Justices of the Peace, and others, that the persons therein specified are registered according to the provisions of this Act, and, subject to the provisions of subsection 2 of this section, the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Act.

Register to be
prima facie
evidence in all
Courts.

(2) In the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the Council, of the entry of the name of such person on the register, shall be evidence that such person is registered under the provisions of this Act. R. S. O. 1887, c. 148, s. 41.

Annual Fees and Certificates.

43.—(1) Every member of the College shall pay to the Registrar or to any person deputed by the Registrar to receive it, such annual fee not being less than \$1 nor more than \$2 as may from time to time be determined by by-laws of the Council passed as in this section is provided to be applied towards the general expenses of the College, which last mentioned fee shall be due on and from the 1st day of January in the year in which the same is imposed; and such fee shall be deemed to be a debt due by each member to the College, and shall be recoverable with costs of suit in the name of the College of Physicians and Surgeons of Ontario, in the Division Court where the member resides. R. S. O. 1887, c. 148, s. 27.

Annual
fee.

(2) The Council may by by-law prescribe means of collecting and enforcing the payment of the said annual fee. 56 V. c. 27, s. 6 part.

44.—(1) Every registered medical practitioner shall obtain from the Registrar, annually before the last day of December in each year, a certificate under the seal of the College, that he is a duly registered medical practitioner.

Medical
practitioners
to take out
annual
certificates.

(2) Upon payment of all fees and dues payable by such medical practitioner to the said College the Registrar shall write his name on the margin of the certificate and the date thereof and the certificate shall be deemed to be issued only from such date. Provided, nevertheless, that any fees properly charged during the time in which any practitioner's name was erased from the register, under this Act, shall be legally recoverable upon production of the certificate of registration at the time of suit.

Issue of
certificate.

Proviso.

(3) No certificate shall be issued to any practitioner who is indebted to the college for any sums payable to the College.

Certificate
not to issue
until fees
paid.

nor until the annual fee for such certificate prescribed by the by-laws of the college under this Act is paid.

Penalty for not taking out annual certificate.

(4) If a practitioner omits to take out such annual certificate he shall not be entitled thereto until he pays to the College the certificate fee as aforesaid together with any other fees or dues which he owes to the College.

Erasure of name where default made for 12 months.

(5) After twelve months default in taking out such certificate, and if two months notice of such default be given by registered letter addressed to the registered address of such defaulter, the Registrar shall, if payment has not been made by the defaulter, erase the name of the medical practitioner so in default from the register, and the provisions of this Act as to unregistered medical practitioners shall forthwith apply to such medical practitioner.

Re-registration upon payment of arrears.

(6) Such medical practitioner may, unless otherwise disqualified under this Act, at any time after his name is so erased by the Registrar, obtain re-registration by applying to the Registrar and paying all arrears of fees and dues owing to the College, under this Act, and taking out his certificate as herein provided and he shall be thereupon re-instated to the full privileges enjoyed by other registered medical practitioners under this Act. 54 V. c. 26, s. 8.

Power of Council in respect of the provisions of ss. 43 and 44

45.—(1) The provisions of sections 43 and 44 of this Act shall only continue in force so long as the by-law of the said Council passed on the 28th day of June, 1895, adopting the same remains in force; and the Council may repeal the said by-law and may by by-law from time to time re-enact the said provisions in whole or in part, or with such modifications as the Council deems proper, subject always to the limit prescribed by section 43. 56 V. c. 27, s. 6 part.

Who may vote on by-laws under this section.

(2) No member of the Council shall be entitled to vote on any by-law under this section except the elected members of the Council, nine of whom at least must be present at the passing of the by-law. 56 V. c. 27, s. 6 part.

OFFENCES AND PENALTIES.

Those entitled to register, and neglecting to do so.

46. Any person entitled to be registered under this Act but who neglects or omits to be so registered, shall not be entitled to any of the rights or privileges conferred by registration under the provisions of this Act, so long as such neglect or omission continues, and he shall be liable to all the penalties imposed by this Act, or by any other Act in force against

unqualified or unregistered practitioners. R. S. O. 1887, c. 148, s. 42.

47. If the Registrar makes or causes to be made any wilful falsification in any matter relating to the register, he shall incur a penalty of \$50, and shall be disqualified from again holding the office of Registrar. R. S. O. 1887, c. 148, s. 43. Penalty on Registrar for falsification.

48.—(1) If any person procures or causes to be procured his registration under this Act, by means of any false or fraudulent representation or declaration, either verbal or in writing, it shall be lawful for the Registrar, upon the receipt of sufficient evidence of the falsity or fraudulent character of the said representation or declaration, to represent the matter to the Council, and upon the written order of the President, attested by the seal of the College, to erase the name of such person from the register, and to make known the fact and cause of the erasure by notice to be published in the *Ontario Gazette*; and after such notice has appeared the person whose name has been erased as aforesaid shall cease to be a member of the College of Physicians and Surgeons of Ontario, and shall cease to enjoy any of the privileges conferred by registration under this Act and shall not be entitled to enjoy the same at any future time, without the express sanction of the Council. Penalty for obtaining registration by fraud.

(2) If any person wilfully procures or attempts to procure himself to be registered under this Act, by making any false or fraudulent representation or declaration, either verbally or in writing, he shall on conviction thereof before any Justice of the Peace incur a penalty not exceeding \$100; and every person knowingly aiding and assisting him therein shall for such offence on conviction thereof incur a penalty of not less than \$20 nor more than \$50. R. S. O. 1887, c. 148, s. 44.

49. It shall not be lawful for any person not registered to practise medicine, surgery or midwifery for hire, gain, or hope of reward; and if any person not registered pursuant to this Act, for hire, gain or hope of reward practises or professes to practise medicine, surgery or midwifery or advertises to give advice in medicine, surgery or midwifery, he shall upon a summary conviction thereof before any Justice of the Peace, for every such offence, pay a penalty not exceeding \$100 nor less than \$25. R. S. O. 1887, c. 148, s. 45. Penalty for practising without registration.

50 Any person who wilfully or falsely pretends to be a Physician, Doctor of Medicine, Surgeon, or general practitioner, or assumes any title, addition or description other than he actually possesses and is legally entitled to, shall be liable on conviction thereof before a Justice of the Peace to a penalty not exceeding \$50, nor less than \$10. R. S. O. 1887, c. 148 s. 46. Penalty for falsely pretending, etc.

Penalty for using title implying registration.

51. Any person not registered pursuant to this Act who takes or uses any name, title, addition or description implying or calculated to lead people to infer, that he is registered under this Act, or that he is recognized by law as a Physician, Surgeon, Accoucheur, or a Licentiate in Medicine, Surgery or Midwifery, shall be liable upon a summary conviction thereof before any Justice of the Peace to pay any penalty not exceeding \$100 nor less than \$25. R. S. O. 1887, c. 148, s. 47.

Not entitled to recover charges unless registered.

52. No person shall be entitled to recover any charge in any Court for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine which he may have prescribed or supplied, unless he produces to the court a certificate that he is registered under this Act; but this section shall not extend to the sale of any drug or medicine by any duly authorised chemist or druggist. R. S. O. 1887, c. 148, s. 48; 54 V. c. 26, s. 2.

Public appointments only conferred on registered persons.

53. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of this Province, or in any hospital or other charitable institution not supported wholly by voluntary contributions, unless he is registered under the provisions of this Act. R. S. O. 1887, c. 148, s. 49.

Certificates by unregistered persons invalid.

54. No certificate required by any Act now in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner, shall be valid unless the person signing the same is registered under this Act. R. S. O. 1887, c. 148, s. 50.

Where prosecution may be brought.

55. Any prosecutions under this Act may be brought or heard before any one or more of Her Majesty's Justices of the Peace having jurisdiction where any such offence has been committed; and the Justice or Justices may award payment of costs in addition to the penalty; and in case the penalty and costs awarded by him or them are not upon conviction forthwith paid, may commit the offender to the Common Gaol, there to be imprisoned for any term not exceeding one month, unless the penalty and costs are sooner paid. R. S. O. 1887, c. 148, s. 51.

Security on appeals.

56. Any person convicted under this Act who gives notice of appeal against the decision of the convicting Justice, shall be required before being released from custody to give to the Justice satisfactory security for the amount of the penalty, costs of conviction and appeal. R. S. O. 1887, c. 148, s. 52.

Onus probandi.

57. In any trial under this Act the burden of proof as to registration shall be upon the person charged. R. S. O. 1887, c. 148, s. 53.

58. In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the Registrar of the council for the time being shall be sufficient evidence of all persons who are registered practitioners, in lieu of the production of the original register; and any certificate upon such printed or other copy of the register, purporting to be signed by any person in his capacity of Registrar of the council under this Act shall be *prima facie* evidence that such person is the Registrar, without any proof of his signature or of his being in fact the Registrar. R. S. O. 1887, c. 148, s. 54.

Evidence of
registry and
signature
Registrar

59. Every prosecution under this Act shall be commenced within one year from the date of the alleged offence. R. S. O. 1887, c. 148, s. 55.

Limitation of
prosecutions.

60. The Council by an order signed by the President having the seal of the College appended thereto, may stay proceedings in any prosecution under this Act where it is deemed expedient. R. S. O. 1887, c. 148, s. 56.

Stay of pro-
ceedings.

61.—(1) All penalties recovered under this Act shall be paid to the convicting Justice and by him paid to the Registrar of the College, and shall form part of the funds thereof.

To whom
penalties
paid.

(2) Any person may be prosecutor or complainant under this Act, and the council may allot such portion of the penalties recovered as may be expedient towards the payment of such prosecutor. R. S. O. 1887, c. 148, s. 57.

Prosecutor.

62. All moneys forming part of the Council funds shall be paid to the Treasurer, and may be applied to carry this Act into execution. R. S. O. 1887, c. 148, s. 58.

Council funds.

SCHEDULE A.

(Sections 6 and 16.)

TERRITORIAL DIVISIONS.

1. Counties of Essex, Kent and Lambton.
2. Counties of Elgin, Norfolk and Oxford.
3. County of Middlesex.
4. Counties of Huron and Perth.
5. Counties of Waterloo and Wellington.
6. Counties of Bruce, Grey and Dufferin.
7. Counties of Wentworth, Halton and Peel.

8. Counties of Lincoln, Welland, Haldimand and Brant.
9. County of Simcoe, and the Districts of Muskoka, Parry Sound, Nipissing, Algoma, Manitoulin, Thunder Bay and Rainy River.
10. That part of the City of Toronto lying east of Yonge street.
11. That part of the City of Toronto lying west of Yonge street.
12. Counties of Ontario, Victoria and York exclusive of Toronto.
13. Counties of Northumberland, Peterborough, Durham and Haliburton.
14. Counties of Prince Edward, Hastings and Lennox.
15. Counties of Frontenac, Addington, Renfrew and Lanark.
16. Counties of Leeds, Grenville and Dundas.
17. Counties of Carleton, Russell, Prescott, Glengarry and Stormont.

56 V. c. 27, Sched. A.

SCHEDULE B.

(Sections 24 and 25.)

QUALIFICATIONS FOR REGISTRY.

1. License to practise Physic, Surgery and Midwifery, or either, within Upper Canada, granted under the Acts of Upper Canada, 59 Geo. III. c. 13, and 8 Geo. IV. c. 3, respectively.
2. License or diploma granted under 2 Vict. c. 38, or under the Consolidated Statutes for Upper Canada, chapter 40, or any Act amending the same.
3. License or authorization to practise Physic, Surgery and Midwifery or either, within Lower Canada, whether granted under the Ordinance 28 Geo. III., c. 8, or under the Act 10 & 11 Vict., c. 26, and the Acts amending the same, or under chapter 71 of the Consolidated Statutes for Lower Canada, or any Act amending the same.
4. Certificate of Qualification to practise Medicine, Surgery and Midwifery, or either, granted by any of the Colleges or bodies named or referred to in section 6 of this Act.
5. Medical or surgical degree or diploma of any University or College in Her Majesty's Dominions, or of such other Universities or Colleges as the Council may determine.
6. Certificate of registration under the Imperial Act, 21 & 22 Vict. c. 90, known as "The Medical Act," or any Act amending the same.
7. Commission or warrant as Physician or Surgeon, in Her Majesty's military service.
8. Certificates of qualification to practise under any of the Acts relating to Homeopathy or the Eclectic system of Medicine.

SCHEDULE C.

(Section 42.)

FORM OF REGISTER.

NAME.	Residence.	Qualifications and additions.
A. B.	Toronto, County of York.....	M.A., M.D., Toronto University.
C. D.	Kingston, County of Frontenac....	M.A., M.D., Queen's University.
E. F.	Etobicoke, County of York... ..	Licentiate, Medical Board.
G. H.	Toronto	do Toronto School of Medicine.

R. S. O. 1887, c. 148, Sched. C.

CHAPTER 177.

An Act respecting the Study of Anatomy.

SHORT TITLE, s.1.	REGISTER TO BE KEPT BY SUPERINTENDENTS OF PUBLIC INSTITUTIONS, s. 13.
WHAT BODIES MAY BE DELIVERED FOR DISSECTION, s. 2.	SECURITY TO BE GIVEN BY MEDICAL SCHOOLS, s. 15.
BODY MAY BE CLAIMED BY FRIENDS, ss. 2, 3.	PENALTIES :
TO WHOM BODIES TO BE DELIVERED, s. 4.	Neglect of duty by inspectors, etc., s. 16.
INSPECTORS OF ANATOMY—APPOINTMENT AND DUTIES, ss. 5-7.	Removal of bodies from Province, s. 17.
Fees, s. 14.	Recovery of, s. 18.
DISTRIBUTION TO DIFFERENT MEDICAL SCHOOLS, s. 8.	BURIALS BY MUNICIPALITIES, s. 19.
NOTICE TO INSPECTOR BY CORONER, ETC., ss. 9-12.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows :—

1. This Act may be cited as "*The Ontario Anatomy Act.*"
52 V. c. 24, s. 7.

Certain bodies may be delivered for study of anatomy.

Proviso.

Delivery to friends.

2. (1)—In all localities coming under the provisions of this Act the body of any person found dead, publicly exposed, or sent to a public morgue, upon which a Coroner shall (after having viewed it,) deem an inquest unnecessary, or who immediately before death had been supported in and by any public institution, shall be immediately placed under the control of the Inspector of Anatomy for that locality, and shall be by him delivered to persons qualified as hereinafter mentioned, unless such body is within twenty-four hours after death claimed by relations or *bona fide* friends, or is the body of a lunatic who has died in any Provincial Asylum for the insane ; Provided nevertheless, that the authorities in whose care any body may be, shall not deliver the same to any person other than a known relative unless such person shall obtain from a Police Magistrate having jurisdiction in the locality, an order authorizing the delivery of such body to such person, and shall produce said order to the said authorities, and shall also pay to the said authorities the sum of \$5 to defray the funeral expenses of the body so claimed, the said sum to be paid over to the

undertaker by the said authorities when satisfied that the body has been properly interred. R. S. O. 1887, c. 149 s. 1; 52 V. c. 24, s. 1. (1).

(2) Such order may be obtained from any such Police Magistrate upon an *ex parte* application therefor, and may be in the form or to the effect following:—

Order of
Police Magis-
trate.

The Ontario Anatomy Act.

To all whom it may concern :

Whereas, *A. B.*, of (here state the name, residence, and occupation of the person to whom and on whose behalf the order is applied for) has satisfied me that he is a *bona fide* friend of *C. D.*, now lately deceased, and is entitled to have delivered to him the body of the said deceased for the purpose of interring the same.

I hereby authorize and order every person and authority having the present custody or control of the body of the said deceased to forthwith upon presentation of this order, deliver the said body of the said deceased to the said *A. B.*, in order that the same may receive proper burial.

Witness my hand and seal as Police Magistrate of and for the town (or county as the case may be) this day of

52 V. c. 24, s. 1 (2).

3. Any medical school obtaining a body as provided by the preceding section shall keep and preserve the same for a period of not less than fourteen days, and in the event of a relative or *bona fide* friend claiming the body within a period of fourteen days from the receipt thereof by the medical school, the medical school shall deliver over the body to the said relative or *bona fide* friend upon the receipt of the reasonable costs and charges for preserving and keeping the same, not to exceed the sum of \$10. R. S. O. 1887, c. 149, s. 2; 52 V. c. 24, s. 2.

Body delivered to medical school may be claimed by friends.

4. The persons qualified to receive such unclaimed bodies shall be the teachers of anatomy or surgery in recognized medical schools; and if there is any medical school in the locality where there is a body liable to be delivered to persons qualified as aforesaid, such school shall have the first claim to the body. R. S. O. 1887, c. 149, s. 3.

To whom such bodies shall be delivered.

5. The Lieutenant-Governor may appoint, during pleasure, a person not being a medical practitioner, nor connected with any school of medicine, to be Inspector of Anatomy for such part of the Province, or for such city, town or other locality therein as may be named in the appointment. R. S. O. 1887, c. 149, s. 4.

Appointment of Inspector of Anatomy.

6. It shall be the duty of every Inspector of Anatomy—

Duties of Inspector.

1. To keep a register of the name, age, sex, birthplace and religious denomination if any, of every person whose unclaimed body has been received by him, and the name of the Medical School or Medical College to which such body was delivered,

with date of delivery, and to deliver up all such bodies as are referred to in section 2 of this Act; 52 V. c. 24, s. 3.

2. To keep a register of medical schools duly qualified to receive and desirous of receiving bodies for the instruction of pupils;

3. To distribute all bodies, in rotation, to such schools in proportion to the number of persons actually engaged in the study of human anatomy in each school, as shewn by their official registers, which he shall be allowed to inspect;

4. To inspect the several authorized practical anatomy rooms in his locality at least once in every six weeks, and to direct the removal and decent interment of any remains that he deems it advisable to have interred;

5. To keep his registers open for the inspection of any medical practitioner who may desire to inspect them; R. S. O. 1887, c. 149, s. 5 (2-5).

6. To enter in the morgue register such a description of every body received by him, and of the clothing and other effects found thereon as would enable relatives or friends to identify the same, and also the name of the Medical College to which such body was transferred. 52 V. c. 24, s. 4, part.

Certain persons to be notified by the Inspector on appointment.

7. Every inspector of anatomy when appointed in any locality, shall, without delay, give notice of his appointment to all persons mentioned in sections 9, 10, 11 and 12 of this Act who may be required under the said sections to notify him in respect of an unclaimed body. 52 V. c. 24, s. 4, part.

Distribution to different medical schools in same city.

8. Where more than one medical school situated in the same city shall have made application for bodies, every Inspector upon sending a body to either school shall notify the Inspector of the city in which such school is situated, and the Inspector for such city in distributing the bodies he receives from his own district shall have regard to the number of bodies each school has received from other Inspectors outside, and if necessary direct them from time to time to which school they shall send bodies, so that each school shall receive from all sources in proportion to the number of persons actually engaged in the study of human anatomy in each school. R. S. O. 1887, c. 149, s. 6.

Coroner to give notice to Inspector of bodies found exposed.

9. Every coroner, whether he does or does not hold an inquest on a body found publicly exposed, to which his attention has been called, and which is not claimed in accordance with section 2 of this Act, shall give notice to the Inspector of Anatomy of the locality, if there is one, failing which, he shall cause the body to be interred as has been customary. R. S. O. 1887, c. 149, s. 7.

10. When the body of a person not known to have any relatives or friends entitled to claim the body is placed in a public morgue, the person in charge of the morgue shall give notice of such unclaimed body to the Inspector of Anatomy for the locality. Notice to be given to Inspector of Anatomy for locality of morgue. R. S. O. 1887, c. 149, s. 8.

11. The mayor of a city or town or the trustee of any municipality coming under the provisions of this Act shall direct notice to be given within twenty-four hours to the Inspector of Anatomy of any still body that is brought under his notice which is unclaimed by relatives or friends, as set forth in section 2 of this Act. Notice to be given to Inspector of Anatomy for locality of body. R. S. O. 1887, c. 149, s. 9; 52 V. c. 24, s. 5.

12. The superintendent of every public institution shall, upon the death of an inmate of the institution who is not known to have any relatives or friends entitled to claim the body, give notice within twenty-four hours of such death to the Inspector of Anatomy for the locality. Notice to be given to Inspector of Anatomy for locality of institution. R. S. O. 1887, c. 149, s. 10; 52 V. c. 24, s. 6.

13. Every such superintendent shall keep a register showing the name, age, sex, birth-place and religious denomination of each person whose body is disposed of under the provisions of this Act, and the school to which such body is delivered, and shall file all documents furnished by persons claiming bodies, which register and file shall be open for inspection; and no such superintendent shall deliver any body to a medical school except on the written order of the Inspector of Anatomy for the locality. Register to be kept by superintendent. R. S. O. 1887, c. 149, s. 11.

14. The Inspector of Anatomy shall receive \$5 for every body delivered under the provisions of this Act, which sum shall be paid to him by the school on delivery of the body. Fees of Inspector. R. S. O. 1887, c. 149, s. 12.

15. Any medical school wishing to avail itself of the benefits of this Act shall appear through its official head before the Justices of Her Majesty's Justice of the Peace and the Inspector of Anatomy, and give security in the sum of \$80, with two good and sufficient sureties in the sum of \$40 each, for the decent interment of the bodies after they have served the purposes required; and upon the due fulfilment of these conditions, the Inspector of Anatomy shall deliver to such school a written authority to open a practical anatomy room entitled to the benefits of this Act. Security to be given. R. S. O. 1887 c. 149, s. 13.

16. Any Inspector of Anatomy, warden of a public institution, medical practitioner, coroner or other official who neglects to discharge the duties required of him by this Act or infringes any of its provisions shall be liable to a fine of not more than \$20 for every such offence. Penalty for infringement. R. S. O. 1887, c. 149, s. 14.

Removal of
bodies from
Province for
purposes of
anatomy pro-
hibited.

17. No person shall send or take a body out of the Province of Ontario for surgical or practical anatomical purposes, and every person contravening the provisions of this section shall for each offence incur a penalty of \$100, notwithstanding the provisions of section 16 of this Act. R. S. O. 1887, c. 149, s. 15.

Recovery of
penalties.

18. Every penalty imposed by this Act may be recovered with costs on summary conviction before any two Justices of the Peace or a Police Magistrate. R. S. O. 1887, c. 149, s. 16.

Burial of
unclaimed
bodies.

19. Subject to the provisions of this Act, any unclaimed human body found dead within the limits of a city, town, incorporated village or township, shall be buried at the expense of the corporation of such city, town, village or township, but such corporation may recover such expense from the estate of the deceased. R. S. O. 1887, c. 149, s. 17.

CHAPTER 178.

An Act respecting Dentistry.

ROYAL COLLEGE OF DENTAL SUR-
GEONS CONTINUED, s. 1.

POWER TO HOLD REAL ESTATE, s. 2.

BOARD OF DIRECTORS, ss. 3-8.

PAYMENT OF MEMBERS, s. 9.

APPLICATION OF FUNDS, s. 10.

POWERS OF BOARD—

Establishment of School of Den-
tistry, s. 11.

Preliminary examination of stu-
dents, s. 12.

Curriculum of studies and regula-
tions respecting students, s. 13.

Power to arrange for education of
students, s. 14.

Examination of candidates and
granting of certificates of li-
cense, s. 15.

Conferring degree of M. D. S.,
s. 16.

By-laws, s. 17.

Certificates of License, who en-
titled to, s. 18.

Annual meetings of the Board for
holding examinations, etc.,
ss. 19, 20.

Granting Certificates of License,
etc., ss. 21-23.

Examination fees, s. 24.

Annual Fees, s. 25.

OFFENCES AND PENALTIES—

Practising without certificate, s. 26.

Procedure on prosecutions, ss.
27-31.

PERSONS CONTRAVENING THIS ACT
NOT TO RECOVER FOR WORK
DONE, s. 32.

MEDICAL PRACTITIONERS NOT AF-
FECTED, s. 33.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts
as follows:—

1. "The Royal College of Dental Surgeons of Ontario," in-
corporated under the Act passed in the 31st year of Her
Majesty's Reign, and chaptered 37 is continued, and every
person who holds a valid and unforfeited certificate of license
to practise dentistry which has been granted to him by the
Board of Directors of the said College, shall be a member of
the said corporation. R. S. O. 1887, c. 150, s. 1.

Royal College
of Dental
Surgeons con-
tinued.
31 V. c. 37.

2.—(1) The said College shall have power to acquire and hold
real estate not exceeding at any time in annual value \$5,000, and
may alienate, exchange, mortgage, incumber, lease or otherwise
charge or dispose of the same, or any part thereof, as occasion
may require, and may erect buildings for the purpose of accom-
modating lecturers on dentistry, or for a library, dental museum,
or specimen room, or for other purposes, for the use of the
members of the said College.

Power to hold
real estate.

(2) No such alienation, exchange, mortgage, incumbrance,
lease, charge or disposition, shall be made given or effected,
except with the consent of the Board of Directors, which con-
sent, shall be signified by the votes of a majority of the mem-
bers.

Consent to
alienation,
etc., required.

bers present at a meeting of the Board duly called for that purpose; and notice of such meeting shall be given to every member of the Board, by letter mailed to his last registered address, seven days before the day appointed for such meeting, and the notice shall state the object of such meeting. The President and Secretary shall have power to affix the corporate seal of the College to any instrument necessary to carry out the intention of the board. R. S. O. 1887, c. 150, s. 2.

Board of Directors of College of Dental Surgeons.

3.—(1) There shall be a Board of Directors of the said Royal College of Dental Surgeons of Ontario, to be constituted in the manner hereinafter provided for in this Act and referred to in this Act as the "Board."

(2) The Board shall consist of eight members, all of whom shall be members of the said Royal College of Dental Surgeons of Ontario, who shall hold office for two years, and of whom any four shall form a quorum.

(3) One member of the Board shall be elected from each of the electoral districts mentioned in Schedule A by the members of the College resident in such district, and each member of the board shall be an elector in the electoral district he represents and shall not be a member of the faculty of the school of dentistry constituted under section 11 of this Act. When a vacancy occurs in the representation of the faculty such a vacancy shall be filled by the faculty.

(4) One member of the Board shall be elected by and from the faculty of the School of Dentistry constituted under section 11 of this Act. 55 V. c. 33, s. 1 (1-4).

Electoral districts.

4. The Province of Ontario shall, for the purposes of this Act, be divided into the seven electoral districts described in Schedule "A." 55 V. c. 33, s. 2 (4).

Election of board.

5.—(1) Elections of the Board shall be held on the second Wednesday of December in every second year reckoning from the year 1890; and the present board of directors shall hold office until the first meeting of the new board.

(2) The persons qualified to vote at such elections shall be the members of the Royal College of Dental Surgeons of Ontario under the provisions of the Acts respecting dentistry heretofore in force, or under the provisions of this Act, who are not in arrears in respect to any fees payable under the provisions of this Act and who are resident in the Province of Ontario.

(3) The votes at said elections shall be given by closed voting papers in the form described in Schedule "B," and shall be delivered to the secretary of the said College by registered letter before the second Wednesday in December in the year in which the election takes place.

(4) The manner of holding such election shall, with respect to notification of the electors of the time and place of holding the election, the nomination of candidates therefor, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, and other necessary details, be determined by by-laws to be passed by the Board and in default of such by-laws the Lieutenant-Governor in Council may prescribe the time and manner of holding such election. 55 V. c. 33, s. 2 (1-3, 5).

6. Any member of the Board may at any time resign by letter directed to the Secretary, and in the event of such resignation, or a vacancy occurring by death or otherwise, the remaining members of the Board shall, from the members in the electoral district in which the vacancy occurs, elect some fit and proper person to fill the vacancy for the remainder of the term. 55 V. c. 33, s. 1 (5). Vacancies in Board, how filled.

7. Every newly elected Board shall hold its first meeting in the City of Toronto, on the fourth Tuesday in March or at such other time as may be fixed by the retiring board, and the members of such Board shall hold office until the first meeting of their successors. Special meetings of the Board shall be called by the President on the request in writing of four members of the Board. 55 V. c. 33, s. 2 (6). Meetings of Board.

8.—(1) Every Board shall at its first meeting elect a President, Treasurer, and Registrar, and shall appoint a Secretary who shall reside in the City of Toronto, and such other officers as the Board considers necessary. The Treasurer and Secretary shall receive such remuneration for their services as the Board may fix. 55 V. c. 33, s. 4. Appointment of President and other officers.

(2) The Board shall from time to time, in the event of the president being absent, from any cause whatever, elect, from among its members, a person to preside at its meetings, who while so presiding shall have the same powers, and exercise the same functions as the President. R. S. O. 1887, c. 150, s. 6 (2).

9. There shall be allowed and paid to each of the members of the Board such fees for attendances (in no case to exceed \$5 per day), and such reasonable travelling expenses as may from time to time be allowed by the Board. R. S. O. 1887, c. 150, s. 7. Remuneration.

10. All moneys under the control of the Board shall be paid to the Treasurer, and shall be applied to the carrying of this Act into execution. R. S. O. 1887, c. 150, s. 8. Funds, how paid to the Treasurer.

11. The Board shall have power and authority to make arrangements for the establishment of a school of dentistry in the City of Toronto. R. S. O. 1887, c. 150, s. 9. Establishment of a School of Dentistry.

Examinations. **12.** The Board shall have authority to appoint one or more examiners for the matriculation or preliminary examination of all students entering the profession, or may accept in lieu of such matriculation or preliminary examination evidence that any student has passed any other satisfactory examination. Such examination shall be passed prior to entering into articles of indenture with a licentiate of dentistry, and the commencement of study shall date from the signing of the articles. R. S. O. 1887, c. 150, s. 10.

Curriculum for students, etc. **13.—(1)** The Board shall also have authority to prescribe, from time to time, a curriculum of studies to be pursued by students, and to fix and determine the period for which every student shall be articulated and employed under some duly licensed practitioner, the examination necessary to be passed and the fees to be paid into the hands of the Treasurer of the Board, before a certificate of license to practise the profession of dentistry is issued. R. S. O. 1887, c. 150, s. 11.

Fees.

Admission of other persons. **(2)** The Board shall also have authority to prescribe the conditions upon which dentists residing elsewhere than in Ontario, and students and graduates from other dental colleges may be admitted to membership in the Royal College of Dental Surgeons of Ontario. 55 V. c. 33, s. 5.

Arrangements for education of students. **14.** The Royal College of Dental Surgeons of Ontario, may, subject to the approval of the Lieutenant-Governor in Council make arrangements with any University or College in Ontario, for the attendance of students of the Royal College of Dental Surgeons at such lectures or classes in any such University or College, as may come within the course or subjects of instruction prescribed by the rules, by-laws, and regulations of the said Royal College of Dental Surgeons of Ontario, and may, subject as aforesaid, agree with any such University or College, for the use of any library, museum, or property belonging to, or under the control of, such University or College, and may affiliate with any such University or College, and may enter into all arrangements necessary for such end, upon such terms as may be agreed upon. R. S. O. 1887, c. 150, s. 12.

Authority to examine candidates and grant licenses. **15.** The Board of Directors of the College shall also have authority to examine candidates and grant certificates of license to practise Dental Surgery in this Province. R. S. O. 1887, c. 150, s. 13.

Title of M. D. S. may be conferred. **16.** With a view to encourage the attainment of a higher standard of education among the licentiates of the College the Board may by by-law provide that any licentiate in dentistry, being a member of the College of not less than five years' standing, shall receive the title of "Master of Dental

Surgery" of said College, upon passing such examinations and complying with such regulations as the Board of Directors may from time to time prescribe. R. S. O. 1887, c. 150, s. 14.

17.—(1) The Board shall from time to time make such rules regulations and by-laws as may be necessary for the proper and better guidance, government, discipline and regulation of the said Board and the profession of dentistry, and the carrying out of this Act, and the said rules, regulations and by-laws shall be published for two consecutive weeks in the *Ontario Gazette*. The Board to make rules, regulations and by-laws.

(2) Any or all of such rules, regulations and by-laws shall be liable to be cancelled and annulled by an order of the Lieutenant-Governor in Council. R. S. O. 1887, c. 150, s. 15. May be annulled by Lieutenant-Governor.

18. All persons being British subjects by birth or naturalization, who were engaged on the 4th day of March, 1868, in the practice of the profession of dentistry, or who, not having been residents of Ontario, have had three years experience in the practice of dentistry shall be entitled to the certificate of "Licentiate of Dental Surgery," upon furnishing to the Board satisfactory proof of their having been so engaged, or having had such experience, and upon passing the required examination, and upon payment of the fees authorized and fixed by the Board, (of the payment of which the treasurer's receipt shall be sufficient evidence); and all persons being British subjects by birth or naturalization, who were constantly engaged for five years and upwards in established office practice, next preceding the said 4th day of March, 1868, in the practice of the profession of dentistry in the Province of Ontario shall upon proof as aforesaid, and upon payment of the fees aforesaid, be entitled to such certificate without passing any examination. R. S. O. 1887, c. 150, s. 16. Certificates may be granted to certain persons.

19.—(1) The Board once at least in every year, at a time or times to be fixed by the Board, shall cause to be held an examination of the candidates for certificates and titles which the Board has authority to grant. Annual examinations.

(2) At every such examination the candidates shall be examined by Examiners to be appointed for the purpose by the Board, and the candidates shall be examined orally or in writing or otherwise in the subjects which the Board considers the most fitting for such examination. Examinations oral or in writing.

(3) The Examiners shall receive such remuneration as may be fixed by the Board. Fees of examiners.

(4) Each Examiner, by acceptance of his appointment as such, shall become bound by the terms of the following declaration, and shall, if required, sign the same in presence of the President, Vice-President or Secretary of the Board:— Declaration to be made by examiners.

Form of
declaration.

"I solemnly declare that I will perform my duty of Examiner without fear, favor, affection or partiality towards any candidate, and that I will not knowingly allow to any candidate any advantage which is not equally allowed to all."

54 V. c. 28, s. 1, part.

Annual meet-
ing for grant-
ing licenses.

20. The Board shall hold at least one meeting in each year in the city of Toronto, at such place as may from time to time be fixed by the Board, for the purpose of granting certificates of license and doing such other business as may properly come before them. The said meetings shall be held at such times as the Board appoints, and shall continue from day to day until the business before the Board is finished; but no meeting shall continue for more than one week. 54 V. c. 28, s. 1, part.

Certificate of
License.

21. If the Board is satisfied by the examination that the candidate is duly qualified to practise the profession of dentistry, and is further satisfied that he is a person of integrity and good moral character, it shall, subject to such rules, regulations and by-laws, grant him a certificate of license and the title of "Licentiate of Dental Surgery," which certificate and title shall entitle him to all the rights and privileges conferred by this Act. R. S. O. 1887, c. 150, s. 19.

Designation
and title.

Certificate to
be under the
corporate seal.
Evidence.

22. Every certificate of license shall be sealed with the corporate seal of the College and signed by the President and Secretary of the Board; and the production of such certificate of license shall be *prima facie* evidence in all Courts and upon all proceedings of whatever kind, of its execution and contents. R. S. O. 1887, c. 150, s. 20.

Return of
licenses
granted.

23. The Secretary of the Board shall, on or before the 15th day of January, in each year, enclose to the Provincial Secretary a certified list of the names of all persons to whom certificates of license have been granted during the year terminating on the preceding 31st day of December. R. S. O. 1887, c. 150, s. 21.

Candidates to
pay fees before
examination.

24. Every person desirous of being examined touching his qualifications for the practice of the profession of dentistry, shall at least one month before such examination pay into the hands of the Treasurer the required fees, and enclose and deliver to the Secretary the Treasurer's receipt for the same, together with satisfactory evidence of his apprenticeship and compliance with the rules and regulations from time to time prescribed by the Board, and of his integrity and good morals. 54 V. c. 28, s. 1, part.

Annual fees.

25.—(1) Each member of the College engaged in the practice of dentistry in the Province of Ontario shall pay to the Treasurer or to any person deputed by the Treasurer to receive the same, on or before the first day of November of each year,

such annual fee as may be determined by by-law of the board, not less than \$1 nor more than \$3, towards the general expenses of the College, and such fee shall be recoverable with costs by suit in the name of the Royal College of Dental Surgeons of Ontario in the Division Court having jurisdiction where the member in default resides, and no member shall be entitled to recover in any Court for any services rendered in the practice of dentistry while he is in default in respect of any annual fee.

(2) No funds collected under this section shall be disbursed otherwise than for the expenses of the Board and the enforcement of the penal clauses of this Act. 55 V. c. 33, s. 6.

26.—(1) No person who is not a member of the said Royal College of Dental Surgeons of Ontario, shall practise the profession of dentistry, or perform any dental operation upon, or prescribe any dental treatment for, any patient, for hire, gain, or hope of reward, whether by way of fees, salary, rent, percentage of receipts or in any other form whatever, or shall pretend to hold, or take or use any name, title, addition or description implying that he holds a certificate of license to practise dentistry, or that he is a member of the said Royal College of Dental Surgeons of Ontario, or shall falsely represent, or use any title representing that he is a graduate of any Dental College.

No person to practise without certificate, or without authority as some certain titles.

(2) Every person who contravenes any of the provisions of this Act, shall for each such offence incur a penalty of \$20.

Penalty.

(3) Provided that this section shall not prevent any duly indented and registered student of dentistry from receiving instruction in clinics and practice under the personal supervision of a member of the College. R. S. O. 1887, c. 150, s. 22.

27. Every penalty imposed by this Act may be recovered with full costs of prosecution on summary conviction before any one or more of Her Majesty's Justices of the Peace for the county in which the offence is committed. R. S. O. 1887, c. 150, s. 23.

Penalties how recoverable.

28. Except where it is herein otherwise provided, the procedure upon any such prosecution shall be that prescribed by *The Ontario Summary Convictions Act*. R. S. O. 1887, c. 150, s. 24.

Procedure upon prosecutions. Rev. Stat. c. 90.

29. The penalty and costs imposed upon any such conviction shall be forthwith paid over to the convicting Justice, and the penalty shall be by him paid over to the Secretary of the said College; and in case the said penalty and costs are not paid forthwith, the said Justice may issue his warrant to commit the defendant to the common gaol of the county, there to be imprisoned for any term not exceeding one month.

Application of penalty.

unless the penalty and costs are sooner paid. R. S. O. 1887, c. 150, s. 25.

Penalty may be recovered in name of the College.

30. The penalty imposed by section 26 of this Act may be recovered by action in the name of the Royal College of Dental Surgeons of Ontario, in the proper Division Court, instead of by the proceedings authorized by the next preceding three sections in case the said College shall sue therefor. R. S. O. 1887, c. 150, s. 26; 59 V. c. 18, s. 11.

In prosecutions burden of proof to be on defendant.

31. On any prosecution or action under this Act, the burden of proof that the defendant is entitled to practise the profession of dentistry as aforesaid, or to use the title assumed by him, or that he is a graduate of the Dental College of which he professes to be a graduate (as the case may be), shall be upon the defendant. R. S. O. 1887, c. 150, s. 27.

Persons contravening Act, not to recover for work done.

32. No person who contravenes any of the provisions of this Act, shall be entitled to sue or recover in any Court for any work done, or materials provided by him, in the ordinary and customary work of a Dentist. R. S. O. 1887, c. 150, s. 28.

This Act not to interfere with registered medical practitioners.

33. Nothing in this Act shall affect or interfere with the rights and privileges conferred upon legally qualified medical practitioners by the Acts relating to the practice of medicine and surgery in this Province. R. S. O. 1887, c. 150, s. 29.

SCHEDULE "A."

(Section 4.)

ELECTORAL DISTRICTS.

Electoral District No. 1 shall be composed of the following counties:—Addington, Carleton, Dundas, Frontenac, Glengarry, Lanark, Leeds, Lennox, Prescott, Russell, Renfrew, Stormont and Grenville.

Electoral District No. 2 shall consist of the following districts and counties:—Algoma, Durham, Haliburton, Hastings, Manitoulin, Muskoka, Nipissing, Northumberland, Ontario, Prince Edward, Parry Sound, Peterborough, Thunder Bay, Rainy River and Victoria and York except the city of Toronto.

Electoral District No. 3 shall consist of the City of Toronto.

Electoral District No. 4 shall consist of the following counties:—Halton, Dufferin, Lincoln, Peel, Simcoe, Wentworth and Welland.

Electoral District No. 5 shall consist of the following counties:—Brant, Elgin, Haldimand, Norfolk, Oxford and Waterloo.

Electoral District No. 6 shall consist of the following counties :—Grey, Bruce, Huron and Wellington.

Electoral District No. 7 shall consist of the following counties :—Essex, Kent, Lambton, Middlesex and Perth.

55 V. c. 33, Sched. A ; 60 V. c. 15, Sched. A. (58.)

SCHEDULE "B."

(Section 5.)

FORM OF VOTING PAPER.

Election 18

Electoral District No.

I, _____ of the _____ of
in the county _____ member of the
Royal College of Dental Surgeons of Ontario do hereby declare :—

1. That the signature affixed hereto is my proper handwriting.
2. That I am a voter in the Electoral District No. _____ and that I
vote for _____ of the _____ of _____ in the County of
_____ a member of the Royal College of Dental Surgeons of
Ontario and an elector in said Electoral District to be a member of the
Board of Directors of the College for the said district.

3. That I have not in this election signed any other voting paper and
that this voting paper was executed on the day of the date thereof.

Witness my hand this _____ day of _____ A.D. 18

55 V. c. 33, Sched. B.

CHAPTER 179.

An Act respecting Pharmacy.

SHORT TITLE, s. 1.	CERTIFICATE TO BE DISPLAYED, s. 22.
ONTARIO COLLEGE OF PHARMACY	RETIRING FROM BUSINESS, s. 23.
CONTINUED, s. 2.	DEATH, s. 24.
POWER TO HOLD REAL ESTATE, s. 3.	PREPARATION OF COMPOUNDS, s. 25.
PHARMACEUTICAL COUNCIL, ss. 4-8.	SALE OF POISONS, ss. 26-28.
EXAMINATIONS OF CANDIDATES FOR	OFFENCES AND PENALTIES, ss. 29-32.
CERTIFICATES OF COMPETENCY,	MEDICAL PRACTITIONERS, ETC., NOT
ss. 9-11.	AFFECTED BY THIS ACT, s. 33.
WHO MAY APPLY FOR CERTIFICATE,	PATENT MEDICINES, s. 34.
s. 12.	HONORARY MEMBERS, s. 35.
PRELIMINARY EXAMINATIONS, s. 13.	DIVISION ASSOCIATIONS, s. 36.
REGISTRATION OF QUALIFIED PER-	
SONS, ss. 14-21.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title. 1. This Act may be cited as "*The Pharmacy Act.*" R. S. O. 1887, c. 151, s. 1.

Ontario College of Pharmacy continued. 2. The Ontario College of Pharmacy, incorporated by the Act passed in the thirty-fourth year of Her Majesty's reign, and chaptered 34, is hereby continued. R. S. O. 1887, c. 151, s. 2.

Power to hold real estate, build, etc. 3. The Ontario College of Pharmacy shall have power to acquire and hold real estate, not exceeding at any time in annual value \$5,000, and may alienate, exchange, mortgage, lease, or otherwise charge or dispose of the said real estate or any part thereof, as occasion may require, and may erect buildings for the purpose of accommodating lecturers on chemistry or pharmacy, or for a library, pharmaceutical museum, or specimen room for the use of the members and associates of the College; and all fees payable under this Act shall belong to the College for the purposes of this Act. R. S. O. 1887, c. 151, s. 3.

Fees.

PHARMACEUTICAL COUNCIL.

Council of whom composed. 4.—(1) There shall be a Council of the College, to be called the Pharmaceutical Council, which shall consist of thirteen members, who shall be elected as hereinafter provided, and shall

hold office for two years, and the Council shall, subject to the by-laws thereof, have sole control of the real and personal property of the College, and have authority to grant certificates of competency to conduct the business of a chemist or druggist, and to be registered subject to the provisions of this Act. R. S. O. 1887, c. 151, s. 4.

(2) The said thirteen members shall be selected from among those members of the College who are actively engaged on their own account, and as proprietors, in the occupation of Pharmaceutical Chemists, whether carrying on business as retail, wholesale or manufacturing chemists, and who reside in the Province of Ontario. 52 V. c. 25, s. 1, part.

5.—(1) The division of the Province into thirteen Electoral Territorial Divisions for the purposes of this Act heretofore made by a by-law of the Council shall continue until altered as hereinafter provided. Electoral divisions.

(2) All general elections of the members of the Council shall be held so that each member shall be a resident of, and shall be elected by, the duly qualified members of the College resident in the Territorial Division. The manner of holding such an election shall, with respect to the time thereof, and the taking of the votes therefor, and the giving of a casting vote in case of equality of votes, be determined by by-laws of the Council, and in default of such by-laws the Lieutenant-Governor in Council may prescribe the time and manner of holding such election. Members of Council to be resident of.

(3) The Council shall have power to re-arrange the geographical boundaries of the Electoral Territorial Divisions every ten years by a by-law, assented to by the Lieutenant-Governor in Council. 52 V. c. 25, s. 1, part. See *Ontario Gazette*, 27th September, 1890. Re-arrangement of.

6. A member of the Council may at any time resign by letter directed to the Registrar of the College; and in the event of a vacancy occurring, the remaining members of the Council shall fill up such vacancy from the members of the College; and such vacancy shall be filled from among members of the College resident in the Territorial Division represented by the member whose seat has become vacant. R. S. O. 1887, c. 151, s. 5; 52 V. c. 25, s. 2. Resignation of members, and vacancy then filled.

7. An election of members of the Council shall be held on the first Wednesday in July in every second year, and the persons qualified to vote at the election, shall be such persons as are members of the said College, and are liable to pay the annual fee of \$4 under this Act. R. S. O. 1887, c. 151, s. 6; 52 V. c. 25, s. 3. Subsequent elections.

Election of
president and
officers.

8. The Council shall, at their first meeting, elect from among themselves a President and Vice-President, and shall appoint a Registrar and such other officers as the Council may consider necessary. R. S. O. 1887, c. 151, s. 7.

CERTIFICATES OF COMPETENCY.

Sittings of the
Council.

For granting
certificates.

9. The Council shall hold at least two sittings in every year, on the first Tuesday in February and the first Tuesday in August, for the purpose of granting certificates of competency, at such places as they may by resolution appoint, of which due notice shall be given for at least one month in the *Ontario Gazette*, and in at least two newspapers published in the City of Toronto. R. S. O. 1887, c. 151, s. 8; 52 V. c. 25, s. 4.

Powers of the
Council as to
subjects of
examination,
fees, etc.

10.—(1) The Council of the said College shall, subject to the supervision and disallowance thereof by the Lieutenant-Governor in Council, have authority from time to time to prescribe the subjects upon which candidates for certificates of competency shall be examined, and to prescribe a curriculum of studies to be pursued by the students; to establish a scale of fees, not to exceed \$10, to be paid by persons applying for examination; and to make by-laws, rules and orders for the regulation of its own meetings and proceedings and those of the College and for the remuneration and appointment of examiners and officers of the College, and for defining the duties of such examiners and officers, and for the payment of remuneration or indemnity to the members of the Council in attending its sittings, or in attending upon the business of the College, and in respect to any other matters which may be requisite for the carrying out of this Act.

Allowances
to members.

(2) No more than five cents per mile for travelling expenses, or more than \$4 per day for such days only as any member is in actual attendance upon the business of the College, including going to and returning from such sitting, shall be allowed to him for such expenses and remuneration. R. S. O. 1887, c. 151, s. 9; 52 V. c. 25, s. 5 and s. 6, (1) part.

Who may
examine.

11. The examinations of the College may be conducted by the members of the council, or by persons appointed by them. R. S. O. 1887, c. 151, s. 10.

WHO MAY APPLY FOR CERTIFICATES.

Qualification
of candidates
for certificates
of competency.

12.—(1) Subject to the rules, regulations and by-laws of the Ontario College of Pharmacy, the following persons and no others may be admitted as candidates for certificates of competency:

(a) Any person who was registered as an apprentice prior to the 23rd day of March, 1889, and who shall furnish to the Council of the College satisfactory evidence of having, in pur-

suance of a binding contract in writing for that purpose, served as an apprentice to a regularly qualified pharmaceutical chemist for a term of not less than three years;

(b) Any person who was registered as an apprentice on or after the said 23rd day of March, 1889, and who shall furnish to the Council of the College satisfactory evidence of having served as an apprentice as aforesaid for a term of not less than four years and who has attended two courses of lectures, the first in any College of Pharmacy or School of Medicine approved by the Council, and the second or senior course at the Ontario College of Pharmacy (such courses to comprise the following subjects, namely, pharmacy, chemistry, materia medica, botany and reading and dispensing prescriptions), and who shall have attained the age of twenty-one years. R. S. O. 1887, c. 151, s. 11 (a); 52 V. c. 25, s. 6 (1, 2).

(2) The period occupied in attending the first of the said two courses of lectures may be counted as part of the term of apprenticeship. 52 V. c. 25, s. 6 (3).

(3) In case any person who has apprenticed himself as aforesaid, shall by reason of the death, failure in business, or removal of his employer, or from any other cause satisfactory to the Council, be unable to complete his term of apprenticeship with such employer, such person shall be at liberty, when and as often as this may happen, to enter into a new contract to complete the remainder of his unfulfilled term with any other regularly qualified pharmaceutical chemist;

(4) Nothing in this section shall apply to any person who had, prior to the 25th day of March, 1884, begun his apprenticeship with a regularly qualified pharmaceutical chemist without such binding contract in writing. R. S. O. 1887, c. 151, s. 11 (b, c).

PRELIMINARY EXAMINATIONS.

13.—(1) Every person who may hereafter be desirous of becoming apprenticed as aforesaid, shall, before the term of his apprenticeship begins to run for the purpose of this Act, furnish to the Registrar of the College a certificate or other evidence satisfactory to the Council, shewing that prior to the commencement of his apprenticeship he had passed an examination in the following subjects:

Qualification of persons desiring to serve apprenticeship under this Act.

Arithmetic and Mensuration—Reduction; simple and compound proportion; vulgar and decimal fractions; square root; areas of rectilineal figures; volumes of right parallelopipeds.

Algebra—Elementary rules; greatest common measure; least common multiple; fractions; simple equations of one unknown quantity.

Political, physical and mathematical geography.

English grammar and composition. R. S. O. 1887, c. 151, s. 12; 52 V. c. 25, s. 7, part.

(2) This section shall not apply to matriculants in arts or medicine in any British or Colonial University or College, or to holders of second or third class non-professional certificates issued by the Education Department of Ontario, or to persons who produce evidence of having passed an examination at least equal to that of the latter. 52 V. c. 25, s. 7, part.

REGISTRATION.

Register,
how kept.

14. It shall be the duty of the Registrar to make and keep a correct register, in accordance with the provisions of this Act as shewn in Schedule B, of all persons who may be entitled to be registered under this Act, and to enter opposite the names of all registered persons who have died, a statement of such fact, and from time to time to make the necessary alterations in the addresses of persons registered under this Act, and to cause to be printed and published on or before the fifteenth day of June of each year, an alphabetical list of the members who were on the first day of June of that year, entitled to keep open shop as pharmaceutical chemists. R. S. O. 1887, c. 151, s. 13.

Entry on the
roll

15. Any person having passed such examination as aforesaid to the satisfaction of the Council, shall be entered upon the roll of registered chemists and druggists, and shall become a member of the College. R. S. O. 1887, c. 151, s. 14.

Persons hold-
ing diplomas
from other
societies may
be registered.

16. All persons approved of by the Council of the College, who hold diplomas from the Pharmaceutical Society of Great Britain, or certificates from any Pharmaceutical College in the Dominion of Canada or elsewhere, may be registered as members of the Ontario College of Pharmacy without the examination prescribed by this Act. R. S. O. 1887, c. 151, s. 15.

Who may be
entered on the
register.

Appeal from
decision of
the registrar.

Fraudulent or
incorrect en-
tries may be
erased.

17. No name shall be entered in the register except of persons authorized by this Act to be registered, nor unless the Registrar is satisfied by proper evidence that the person claiming is entitled to be registered; and any appeal from the decision of the Registrar may be decided by the Council of the College; and any entry proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be erased from or amended in the register by order of the Council. R. S. O. 1887, c. 151, s. 16.

Certificate to
be granted on
registration.

18. Upon any person being registered under this Act, he shall be entitled to receive a certificate in the form of Schedule D or to the like effect, under the corporate seal of the College, and signed by the Registrar. R. S. O. 1887, c. 151, s. 17.

Fees.

19. There shall be payable to the Registrar of the College, for the uses of the College, on the first day of May of each year, by every person registered and carrying on business as a

pharmaceutical chemist, the sum of \$4; Provided, that in case such person shall carry on business in more than one locality the further sum of \$4 shall be payable by him, as aforesaid, for each additional place of business, and provided also, that all employees or assistants who manage or have charge of such additional places of business, shall be legally qualified pharmaceutical chemists. R. S. O. 1887. c. 151, s. 18.

20. Any person registered under this Act, and no other person, shall be entitled to be called a pharmaceutical chemist, and no person except a pharmaceutical chemist, as aforesaid, or his employee or employees, shall be authorized to compound prescriptions of legally authorized medical practitioners; but no person shall be entitled to any of the privileges of a pharmaceutical chemist, or member of the College, who is in default in respect to any fees payable by him by virtue of this Act. R. S. O. 1887, c. 151, s. 19.

Who alone
may act as
Pharmaceuti-
cal Chemists.

21. Upon a resolution of the Council of the College being passed, declaring that any person in consequence of his conviction for any offence or offences against this Act, is, in the opinion of the Council, unfit to be on the register under this Act, the Lieutenant Governor in Council may direct that the name of such person shall be erased from the register, and it shall be the duty of the Registrar to erase the same accordingly. R. S. O. 1887, c. 151, s. 20.

Erasing name
of member on
conviction of
offence.

22. Every pharmaceutical chemist carrying on business on his own account shall display his certificate in a conspicuous position in his place of business. R. S. O. 1887, c. 151, s. 21.

Certificate to
be publicly
displayed.

23. Every person having been registered under this Act or any former Act, as a pharmaceutical chemist, shall, on retiring from business as a chemist, give the Registrar notice in writing of the same, and his name shall be erased from the Register of Pharmaceutical Chemists and he shall cease to enjoy any of the privileges of the College, and in default of such notice he shall remain liable for his annual registration fee; Provided that it shall be lawful for any such person to resume the business of chemist and druggist at any time after retiring therefrom as aforesaid, upon giving notice in writing to the Registrar of the College of his intention so to do, and upon payment to him of the then current annual registration fee. R. S. O. 1887, c. 151, s. 22. 52 V. c. 25, s. 8.

Person retir-
ing from busi-
ness to notify
Registrar.

Provide.

24. Upon the decease of any person legally authorized and actually carrying on the business of chemist and druggist at the time of his death, it shall be lawful for the executor, administrator or trustee of the estate of such person to continue the business if and so long only as such business is *bona fide* conducted by a pharmaceutical chemist registered under this

Executors
may carry on
business of
deceased
chemist.

Act, provided such executor, administrator or trustee continues to pay the annual registration fee of \$4. R. S. O. 1887, c. 151, s. 32.

PREPARATION OF COMPOUNDS.

How compounds are to be prepared.

25. All compounds named in the British Pharmacopæia shall be prepared according to the formula directed in the latest edition published "by authority" unless the College of Physicians and Surgeons of this Province select another standard, or unless the label distinctly shews that the compound is prepared according to another formula. R. S. O. 1887, c. 151, s. 23.

SALE OF POISONS.

Restriction on sale of poisons, etc., and on the assumption of certain titles

Proviso.

26. No person shall sell or keep open shop for retailing, dispensing or compounding poisons, or sell or attempt to sell any of the articles mentioned in Schedule A to this Act, or assume or use the title of "Chemist and Druggist," or "Chemist," or "Druggist," or "Pharmacist," or "Apothecary," or "Dispensing Chemist," or "Dispensing Druggist," in any part of the Province of Ontario, unless such person is registered under this Act, and unless such person has taken out a certificate under the provisions of section 18 of this Act, for the time during which he is selling or keeping open shop for retailing, dispensing or compounding poisons, or assuming or using such title; Provided, that nothing in this Act contained shall be taken to prevent the sale, by persons not registered in pursuance of this Act, of Paris Green, and London Purple, so long as such articles are sold in well secured packages distinctly labelled with the name and address of the person preparing or putting up such packages and marked "Poison." R. S. O. 1887, c. 151, s. 24,; 56 V. c. 28, s. 1.

Certain articles to be deemed poisons.

27. The several articles named or described in Schedule A shall be deemed to be poisons within the meaning of this Act, and the Council of the Ontario College of Pharmacy, hereinbefore mentioned, may from time to time by resolution declare, that any article in the resolution named ought to be deemed a poison within the meaning of this Act, and thereupon the said Council shall submit the same for the approval of the Lieutenant-Governor in Council, and if approval is given, then such resolution and approval shall be advertised in the *Ontario Gazette*, and on the expiration of one month from the advertisement the article named in the resolution shall be deemed to be a poison within the meaning of this Act, and the same shall be subject to the provisions of this Act, or such of them as may be directed by the Lieutenant-Governor in Council. R. S. O. 1887, c. 151, s. 25.

28. No person shall sell any poison named in the first part of Schedule A either by wholesale or retail, unless the box, bottle, vessel, wrapper or cover in which the poison is contained is distinctly labelled with the name of the article and the word "Poison" and if sold by retail, then also with the name and address of the proprietor of the establishment in which such poison is sold; and no person shall sell any poison mentioned in the first part of Schedule A to any person unknown to the seller unless introduced by some person known to the seller; and on every sale of any such article the person actually selling the same shall, before delivery, make an entry in a book to be kept for that purpose, in the form set forth in Schedule C to this Act, stating the date of the sale, the name and address of the purchaser, the name and quantity of the article sold, the purpose for which it is stated by the purchaser to be required, and the name of the person, if any, who introduced him, to which entry the signature of the purchaser shall be affixed. R. S. O. 1887, c. 151, s. 26.

Certain poisons to be sold only in a certain manner.

OFFENCES AND PENALTIES.

29. No person shall wilfully or knowingly sell any article under the pretence that it is a particular drug or medicine which it is not in fact, and any person so doing (besides any other penalties to which he may be liable) shall be subject to the penalties prescribed by section 30 of this Act. R. S. O. 1887, c. 151, s. 27.

Penalties on wrongful sales.

30. Any person transgressing any of the provisions of this Act, or selling any poison in violation thereof, shall for the first offence incur a penalty of \$20 and costs of prosecution, and for each offence committed subsequent to such conviction, a penalty of \$50 and costs of prosecution, to be recovered in a summary manner before one or more Justices of the Peace or a Police Magistrate, under *The Ontario Summary Convictions Act*, on the oath of one or more credible witnesses, one moiety to belong to the prosecutor and the other to be paid to the Registrar for the use of the College. R. S. O. 1887, c. 151, s. 28.

Penalties for infringement of this Act.

Rev. Stat. c. 90.

31. In any prosecution under this Act it shall be incumbent upon the defendant to prove that he is entitled to sell or keep open shop for compounding medicines or retailing poisons, and to assume the title of chemist and druggist, or other title mentioned in section 26 of this Act, and to give evidence sufficient *prima facie* to prove that no unregistered person who personally takes any part whatever in selling or dispensing drugs or medicines is interested with him in his sales as chemist and druggist, and the production of a certificate purporting to be under the hand of the Registrar and under the seal of the College, shewing that any person named therein is entitled as aforesaid, shall be *prima facie* evidence that

Proof by defendant on prosecution.

such person is so entitled. R. S. O. 1887, c. 151, s. 29; 52 V. c. 25, s. 9.

Price of articles sold contrary to this Act not to be recovered.

32. No person selling articles in violation of the provisions of this Act shall recover any charges in respect thereof in any Court of Justice. R. S. O. 1887, c. 151, s. 30.

ACT NOT TO AFFECT MEDICAL PRACTITIONERS.

Act not to apply to medical practitioners, etc.

Rev. Stat. c. 176.

33.—Nothing in this Act contained shall extend to or interfere with the privileges conferred upon legally qualified medical practitioners by *The Ontario Medical Act*, Provided that where such medical practitioner desires to carry on the business of a Pharmaceutical Chemist as defined by this Act, he shall not be required to pass the examination prescribed by the College of Pharmacy, but he shall register as a Pharmaceutical Chemist, and comply with all other requirements of this Act and nothing in this Act contained shall prevent any person whatsoever from selling goods of any kind to any person legally authorized to carry on the business of an apothecary, chemist or druggist, or the profession of a doctor of medicine, physician or surgeon, or veterinary surgeon, or shall prevent the members of such professions supplying to their patients such medicine as they may require, or shall interfere with the business of wholesale dealers in supplying poisons or other articles in the ordinary course of wholesale dealing. R. S. O. 1887, c. 151, s. 31, (1); 52 V. c. 25, s. 10, (1).

Selling patent medicines.

34.—(1) Nothing in this Act contained shall extend to or interfere with or affect the making or dealing in any patent or proprietary medicines, except as is in this section provided.

(2) If there is reason to apprehend that any such medicine contains any poison mentioned in the Schedules to this Act in such a quantity as renders the use of the said medicine in the doses prescribed dangerous to health or life, the Provincial Board of Health may cause an analysis of such medicine to be made by an analyst or other competent person appointed by the Lieutenant-Governor in Council.

(3) If on such analysis it is reported by such analyst or other person that such patent or proprietary medicine does contain any of the said poisons in such a quantity as renders its use in the doses prescribed dangerous to health or life, the said Board may give notice to the manufacturer or proprietor of such patent or proprietary medicine, or to his agent or representative in this Province of the result of such analysis, and in that case shall name a convenient time and place at which the manufacturer or proprietor may be heard before the said Board in opposition to the said report.

(4) If the Board is of the opinion that the said patent or proprietary medicine is in the doses prescribed dangerous as

aforesaid, the Board shall afterwards report their opinion to the Lieutenant-Governor in Council, and the report shall be subject to appeal to the Lieutenant-Governor in Council.

(5) The Board shall submit to the Lieutenant-Governor in Council the report of the analysis, and the objections, if any, made to the same by the manufacturer or proprietor, together with the report of the Board thereon, and if the Lieutenant-Governor in Council approves of the report of the Board notice thereof may be given in the *Ontario Gazette*, and after such notice in the *Ontario Gazette*, the provisions of this Act with regard to poisons shall apply to such patent or proprietary medicines whether sold by persons registered in pursuance of this Act, or by others. 58 V. c. 29, s. 2.

HONORARY MEMBERS.

35. It shall be competent for the Council of the College to elect as honorary members such persons as may be eminent for their scientific attainments, but such honorary members shall not as such be entitled to vote at elections or carry on the business of pharmaceutical chemists. R. S. O. 1887, c. 151, s. 33. Election of honorary members.

DIVISION ASSOCIATIONS.

36. In each of the Territorial Electoral Divisions referred to in section 5, there may be established a Territorial Division Pharmaceutical Association which may be called the "Division Association" of such division, of which every member of the College residing in such division shall be a member, and the representative in the Council shall be *ex officio* Chairman of such Division Association. 52 V. c. 25, s. 12. Establishment of Territorial Division Pharmaceutical Associations.

SCHEDULE A.

(Sections 26, 27 and 28).

PART I.

Acid, Hydrocyanic (Prussic),	Corrosive sublimate,
Aconite and compounds thereof,	Digitaline,
Antimony, Tartrate of,	Ergot,
Arsenic and all the compounds there- of,	Hemp, Indian,
Atropine,	Morphia and its salts and solutions,
Carbolic Acid,	Oil, Cedar,
Chloral Hydrate,	Strychnine and Nux Vomica,
Cocaine and its preparations,	Savin and preparations of,
Conia and the compounds thereof,	Veratria.

PART II.

Acid, Oxalic,	Opium, with its preparations, in- cluding laudanum, etc, but not paregoric,
Antipyrine.	Phenacetine.
Antifebrine.	Pink Root,
Antikamnia.	Podophyllin,
Belladonna and the compounds there- of,	Potassium, Iodide of,
Beans, Calabar,	Potassium, Bromide of,
Cantharides,	St. Ignatius Beans,
Chloroform and Ether,	Santonine,
Conium and the preparations thereof,	Scammony,
Croton Oil and seeds,	Stramonium and preparations,
Cyanide of Potassium,	Sulfonal.
Euphorbium,	Valerian,
Elaterium,	Verdigris,
Goulard Extract,	Zinc, Sulphate of.
Hyosciamus and preparations,	
Hellebore,	
Iodine,	

R. S. O. 1887, c. 151, Sched. A ; 52 V. c. 25, s. 11 ; Order in Council, 25th October, 1892.

SCHEDULE B.

(Section 14.)

FORM OF REGISTER.

Name.	Residence.	Qualification.	Remarks.
A. B.	Kingston.	In business for three years prior to 15 Feb. 1871.	Dead.
C. D.	Hamilton.	Examined and Certified, July 12, 1871.	Erased by order of the Lieut.-Gov., dated 14th Oct. 1875.
E. F.	London.	Served apprenticeship and as assistant.	

R. S. O. 1887, c. 151, Sched. B.

SCHEDULE C.

(Section 28.)

FORM OF ENTRY.

Date.	Name of purchaser.	Name and quantity of poison sold.	Purpose for which it is required.	Signature of purchaser.	Address of purchaser.	Name of person introducing purchaser.

R. S. O. 1887, c. 151, Sched. C.

SCHEDULE D.

(Section 18.)

CERTIFICATE OF REGISTRATION.

I hereby certify that *C. D.* having complied with the requirements of *The Pharmacy Act* was on the _____ day of _____, A. D. 18____, duly registered as a Pharmaceutical Chemist, and is authorized to carry on the business of Chemist and Druggist in the Province of Ontario, from the _____ day of _____ 18____, to the _____ day of _____, 18____.

R. F.,

Registrar of the Ontario College of Pharmacy.

[Corporate Seal.]

7. LAND SURVEYORS AND SURVEYING.

CHAPTER 180.

An Act respecting Land Surveyors.

SHORT TITLE, s. 1.	EXAMINATION OF CANDIDATES FOR
INTERPRETATION, s. 2.	ADMISSION TO PRACTICE, ss. 33-
WHO ONLY MAY ACT AS LAND SUR-	35.
VEYORS, s. 3.	SECURITY, s. 36.
ASSOCIATION OF ONTARIO LAND SUR-	OATH OF ALLEGIANCE AND OF OFFICE,
VEYORS, s. 4.	s. 37.
POWERS OF, ss. 5, 6.	SUSPENSION OF SURVEYORS, s. 38.
COUNCIL OF MANAGEMENT AND OFFI-	FEES TO ASSOCIATION, s. 39.
CERS, ss. 7-14.	WITNESS FEES, s. 40.
QUALIFICATION OF VOTERS AND OFFI-	REGISTER OF PERSONS ENTITLED,
CERS, s. 15.	ss. 41-43.
TERM OF OFFICE, s. 16.	PUBLICATION OF ANNUAL REGISTER,
DISPUTED ELECTIONS, s. 17.	s. 45.
ANNUAL MEETING, s. 18.	FRAUDULENT REGISTRATION, ss. 46,
BOARD OF EXAMINERS, ss. 19-21.	47.
ADMISSION OF APPRENTICES, ss. 22-	RECOVERY OF FEES AND PENALTIES,
24.	s. 48.
QUALIFICATIONS FOR ADMISSION TO	NOTICES AND DOCUMENTS, s. 49.
PRACTICE, ss. 25-29.	APPLICATION AND INVESTMENT OF
TRANSFER OF APPRENTICES, ss. 30, 31.	FUNDS, s. 50.
INSTRUMENT OF APPRENTICESHIP TO	ACCOUNTS TO BE KEPT AND AUDITED,
BE FILED, s. 32.	s. 51.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as "*The Ontario Land Surveyors Act.*" 55 V. c. 34, s. 18 (1)

INTERPRETATION

Interpre-
tation.
"Commis-
sioner of
Crown
Lands."

2.—(1) The expression "Commissioner of Crown Lands," wherever it occurs in this Act, shall mean the person authorised to discharge the duties of that office. R. S. O. 1887, c. 152, s. 1.

"Ontario
Land Sur-
veyor."

(2) The expression "Ontario Land Surveyor" shall include a "Provincial Land Surveyor." 55 V. c. 34, s. 18 (2).

REGISTRATION OF LAND SURVEYORS.

3. No person shall act as a surveyor of lands within this Province unless he has been duly authorized to practise as a land surveyor according to the provisions of this Act, or had been so authorised before the passing thereof, according to the laws then in force, and shall have become registered and shall continue to be registered under the provisions of this Act, under a penalty of \$40. R. S. O. 1887, c. 152, s. 2; 55 V. c. 34, s. 1; 60 V. c. 27, s. 21. Who may act as land surveyor.

ASSOCIATION OF ONTARIO LAND SURVEYORS.

4.—(1) The Association of Ontario Land Surveyors is hereby continued as a body corporate with perpetual succession and a common seal; and all persons who are now members of the Association shall continue members thereof subject to the by-laws of the Association and the provisions of this Act. Association of Ontario Land Surveyors.

(2) All persons who were prior to the 14th day of April, 1892, duly authorised to practice as land surveyors, and such other persons as shall become hereafter duly authorised so to practice under the provisions of this Act, shall upon becoming duly registered as hereinafter provided, become members of the said Association. 55 V. c. 34, s. 3, part.

5. The said Association shall have power to acquire and hold real estate not exceeding at any time an annual value of \$5,000, and to alienate, exchange, mortgage, lease or otherwise charge or dispose of the said real estate, or any part thereof, as occasion may require, and all fines and fees payable under this Act, or under any by-law which may be passed by the Association under the powers hereby granted, shall belong to the Association for the purpose of this Act. 55 V. c. 34, s. 3, part. Powers of.

6.—(1) The said Association may pass by-laws not inconsistent with the provisions of this Act for the— By-laws

- (a) Government, discipline and honour of its members:
- (b) Management of its property.
- (c) Examination and admission of candidates for the study or practice of the profession; and
- (d) For all such other purposes as may be necessary for the working of the corporation.

(2) All by-laws shall be prepared by the council hereinafter named, and be ratified by the Association at the annual general meeting, or at a special general meeting, to be called for the purpose. 55 V. c. 34, s. 3, part.

Council of
Management.

7.—(1) There shall be a Council of Management of the Association consisting of the Commissioner of Crown Lands, the President and Vice-President of the Association, and six other elective members, to be elected and hold office as hereinafter provided.

(2) The Council shall elect annually one of its members as its Chairman, and shall appoint from amongst the members of the Association such other officers as may be necessary for the working of this Act, who shall hold office during the pleasure of the Council. 55 V. c. 34, s. 4, part.

Officers.

8. The members of the Association shall elect annually from amongst their number a President, Vice-President, Secretary-Treasurer, two Auditors and two members of the Council of Management, and the Secretary-Treasurer of the Association shall be the Registrar of the Association and Secretary of the Board of Examiners. 55 V. c. 34, s. 4 (1).

(2) The said President, Vice-President, Secretary-Treasurer, Auditors and two members of the Council may be elected at the annual general meeting in each year, providing their election is unanimous. 55 V. c. 34, s. 4 (2) part.

Election by
ballot.

9.—(1) Should the election of any of the officers mentioned in the preceding section not be made unanimously at the annual general meeting, and a ballot be demanded for the election of any of them by any member of the Association entitled to vote at such election, then and in every such case the President, or in his absence, the Vice-President, shall appoint two scrutineers to count the ballots, and the Secretary-Treasurer shall at such annual general meeting receive nominations of candidates for the office or offices in respect of which such ballot shall have been demanded, and the election shall take place in the manner hereinafter provided. 55 V. c. 34, s. 4 (2) part.

(2) All elections under this Act shall be by ballot if demanded, and shall be conducted in the manner provided by the by-laws of the Association. 55 V. c. 34, s. 4 (11b).

Voting
papers.

10. At least one week after the annual general meeting, at which a ballot was demanded, the Secretary-Treasurer, as Registrar of the Association, shall send by post, to each member of the Association, when his address is known, the form of voting paper in Schedule B to this Act, with the list of the names of all candidates nominated at the annual general meeting, and also a list of the retiring members, and the voting for officers and members of the Council shall be limited to the persons who have been so nominated. 55 V. c. 34, s. 4 (3).

When to be
returned.

11. The votes at an election by ballot for officers and members of the Council of Management shall be given by closed

voting papers, in the form in Schedule B to this Act, or to the like effect, and shall be delivered to the Secretary-Treasurer of the Association at his office, between the hours of ten o'clock in the forenoon and four o'clock in the afternoon, on any day between the second Tuesday of March and the first Tuesday of April in each year in which an election by ballot is held, and any voting papers received by the Secretary-Treasurer by post during the time aforesaid shall be deemed to be delivered to him for the purposes of the election. 55 V. c. 34, s. 4 (4).

12.—(1) The voting papers shall upon the Thursday after the first Tuesday of April be opened by the Secretary-Treasurer of the Association in the presence of the scrutineers appointed as above provided, who shall examine and count the votes, and keep a record thereof in a proper book provided by the Council. Counting of

(2) Any person entitled to vote at the election shall be entitled to be present at the opening of the voting papers.

(3) The persons who have the highest number of votes for officers or members of the Council, as the case may be, shall be declared elected. 55 V. c. 34, s. 4 (5-7).

13.—(1) In case of an equality of votes between two or more persons which leaves the election of one or more officers or members of the council undecided, then the scrutineers shall forthwith put into a ballot box a number of papers with the names of the candidates respectively having such equality of votes written thereon, one for each candidate, and the Secretary-Treasurer of the Association shall draw from the ballot box, in the presence of the scrutineers, one or more of the papers sufficient to make up the required number, and the person or persons whose name or names are upon the papers so drawn shall be the officer or officers or the member or members of the Council as the case may be. Case of equality of votes.

(2) Upon the completion of the counting of the votes and of the scrutiny, the Secretary-Treasurer shall forthwith declare the result of the election, and shall as soon as conveniently may be, report the same in writing, signed by himself and by the scrutineers, to the President of the Association. 55 V. c. 34, s. 4 (8, 9). Declaration of result.

14. In the event of any elector placing more than the required number of names upon the voting paper for members of the Council, the first names only, not exceeding the required number, shall be taken for the members of the Council. 55 V. c. 34, s. 4 (10). Where voting paper has too many names.

15.—(1) The persons qualified to vote at an election shall be qualified such persons as are members of the Association who have paid all fees due from them to the Association under the provisions of voters.

of this Act and of any by-law of the Association. 55 V. c. 34, s. 4 (11a), s. 8 (4).

Of officers.

(2) No person shall be eligible for election to any office or to the Council, or qualified to fill any vacancy thereon, or to appointment by the Council to any office, unless his fees have been paid and he is duly qualified under the provisions of this Act, and the by-laws of the Association. 55 V. c. 34, s. 4 (12).

Term of office
of members of
council.

16.—(1) Except in the case of an appointment to fill a vacancy caused by the resignation, death or dismissal of a member of the Council, all elected members of the Council shall hold office for the term of three years, and until their successors shall have been elected.

(2) In case of the resignation, death or dismissal of the President, Vice-President, or any elective member of the Council, the other members of the Council shall have power to fill any vacancy so caused. 55 V. c. 34, s. 4 (13).

Disputed
elections.

17. In case of any doubt or dispute as to who has or have been elected to any office, or as a member or members of the Council, or as to the legality of the election of any such officer or officers, member or members of the Council, it shall be lawful for the other duly elected officers and members to be, and they are hereby constituted a committee to hold an enquiry, and decide who, if any, is, or are, the legally elected officer or officers, or member or members of the Council, and the person or persons, if any, whom they decide to have been elected, shall be and be deemed to be the officer or officers, or member or members legally elected, and if the election is found to have been illegal, the said committee shall have power to order a new election. 55 V. c. 34, s. 4 (14).

Annual
general meet-
ing.

18. The annual general meeting of the Association shall be held in the City of Toronto on the fourth Tuesday in February in each year, and at such place as the Council may appoint. Due notice of such meeting shall be given by the Secretary-Treasurer, to each member of the Association, by circular letter, posted to his registered address, at least ten days before such meeting. 55 V. c. 34, s. 4 (15), s. 8 (4).

BOARD OF EXAMINERS.

Board of
Examiners.

19.—(1) There shall be a Board of Examiners for the examination of candidates for admission to study, and also for such other examinations as the Council may hereafter prescribe for candidates for admission to practise as land surveyors, which board shall consist of the Chairman of the Council, the Secretary-Treasurer, four other members of the association, to be appointed by the Council, and two to be appointed by the Lieutenant-Governor in Council.

(2) The six members to be appointed as aforesaid shall respectively hold office for a term of three years. In case of the resignation, death or inability to act of any member of the Board the Lieutenant-Governor in Council, if such member was appointed by him, and the Council of the Association if such member was appointed by the Council, shall appoint a member of the Association to be a member of the Board of Examiners for the unexpired portion of the term.

(3) The Chairman of the Council shall be the Chairman of the Board of Examiners, and three members of the Board shall form a quorum.

(4) The Council may also appoint competent persons to assist the Board of Examiners in any of the subjects of examination, and shall have the power to fix the expenses and fees to be paid to any of the said examiners, subject as hereinafter provided to the restrictions hereinafter contained in respect of payments to members of the Board. 55 V. c. 34, s. 4 (16, 17); 60 V. c. 27, s. 22.

(5) Each member of the Board of Examiners shall take the following oath of office before a Judge of a County Court, or a Justice of the Peace: Oath of Examiner.

I, _____ of _____ having been appointed a member of the Board of Examiners for the admission of Ontario Land Surveyors for the Province of Ontario, do sincerely promise and swear that I will faithfully discharge the duties of such office without favour, affection or partiality. So help me God.

Sworn before me at _____ this _____ day of _____ 18____
55 V. c. 34, s. 4, (18).

20. The said Board shall meet at the office of the Commissioner of Crown Lands, on the second Monday in the month of February, in every year, unless such Monday be a holiday (in which case they shall meet on the day next thereafter not being a holiday), and may adjourn such meeting from time to time if they deem it necessary. R. S. O. 1887, c. 152, s. 6. 60 V. c. 27, s. 1. Meetings when and where to be held.

21. The Council shall, for each day's attendance pay, out of the funds of the Association, to each member of the Board of Examiners, who attends any examinations, such sum, not less than \$6 nor more than \$8, as the Council may by by-law determine, and his travelling expenses. 55 V. c. 34, s. 6. 60 V. c. 27, s. 25. Payment of examiners.

APPRENTICES.

22. No person shall be admitted as an apprentice with any Ontario Land Surveyor unless he has previously passed an examination to the satisfaction of the Board of Examiners, in penmanship, orthography, English grammar, arithmetic, algebra, (including square-root logarithms and quadratic equa- Qualification to admission as apprentice, and examination of applicant.

tions), euclid, (first four books and deductions,) plane trigonometry, spherical trigonometry as far as and including the solution of right-angled triangles, mensuration, practical geometry, (including the use of ruling-pen and the construction of plane and comparative scales) Canadian and general geography and Canadian history, and has obtained a certificate of such examination and of his proficiency from the Board. 60 V. c. 27, s. 2.

Examination
and certificate
fees.

23. Every applicant shall before being so examined pay to the Secretary-Treasurer of the Association the fees chargeable as hereinafter provided for the said examination and certificate. R. S. O. 1887, c. 152, s. 8.

Notice to be
given by ap-
plicants.

24. Applicants for examination previous to apprenticeship, shall give one month's notice to the Secretary of the Board of their intention to present themselves for examination, and shall pay to the said Secretary the fee for receiving and entering such notice. R. S. O. 1887, c. 152, s. 9.

QUALIFICATION FOR ADMISSION TO PRACTISE.

Qualification
for admission
to practise.

25. Except as hereinafter provided no person shall be admitted to practise as a land surveyor in and for Ontario until he has attained the full age of 21 years, and has passed an examination before the Board of Examiners in the following subjects, viz., geometry, including the first six books of Euclid, (with the exception of the last thirteen propositions of the fifth book) algebra, including progressions, plane and spherical trigonometry, mensuration of superficies, laying out and dividing of land, descriptions by metes and bounds for deeds and other documents, the use and adjustment of surveying and levelling instruments, the laying out of curves, practical astronomy, including finding of time, latitude, longitude, azimuth, variation of the compass, and drawing meridian lines, the Acts relating to the survey of lands in Ontario, *The Mines Act*, *The Registry Act*, so far as it refers to plans, the Municipal Acts, so far as they relate to roads, surveys and drainage, *The Drainage Act*, *The Ditches and Watercourses Act*, the theory and practice of levelling, the principles of evidence, drawing of affidavits, taking of field notes and preparing plans, the rudiments of geology and mineralogy, elementary botany and the forest flora of Canada, and the sufficiency of his surveying instruments, and has served regularly and faithfully, for three successive years, except as is in this section hereinafter provided, under an instrument in writing duly executed before two witnesses, as apprentice to an Ontario Land Surveyor, duly admitted and practising therein as such, nor until he has received from the said land surveyor a certificate of his having so served during the said period, or proves to the satisfaction of the Board that he has so served. R. S. O. 1887, c. 152, s. 10. 60 V. c. 27, s. 3.

Rev. Stats.
cc. 36, 136;
cc. 226, 285.

Apprentice-
shi

26. Any person serving as an apprentice as hereinbefore provided, may, with the permission of the Board of Examiners, attend the Ontario School of Practical Science, or any school, college, or university, the course of study in which is in the opinion of the Board sufficiently similar to that in the Ontario School of Practical Science, for the purpose of taking any course of study which includes any subjects required for the final examination for admission to practise as a land surveyor, but the total period of such apprenticeship and of such course of study shall not exceed the period of four years from the date of the articles of apprenticeship as above mentioned, and not less than three years of the said period of four years shall be passed in the actual service of a practising Ontario Land Surveyor. 60 V. c. 27, s. 4.

Attendance at apprenticeship at School of Practical Science or institution with similar course of study.

27. In case a person who has attained the full age of 21 years and who has been practising as a land surveyor in any of Her Majesty's dominions other than this Province, shall satisfy the Board of Examiners that the qualifications for practising required of such person in the said dominion, were sufficiently similar to those required in this Province, and shall produce to the said Board his diplomas or certificates, such person shall not be required to serve as an apprentice, or shall only be required to serve during such period not exceeding three years as the said Board may consider requisite, after which such person shall on complying with the other requirements of this Act, have the right to undergo the final examination, or such portions thereof as the said Board may consider necessary, and shall, if found qualified, be admitted to practise as a land surveyor in Ontario. 60 V. c. 27, s. 6.

Persons qualified in other British dominions may be admitted to practice in Ontario.

28. The privilege of a shortened term of apprenticeship shall also be accorded to any graduate of the Royal Military College at Kingston, or of the Ontario School of Practical Science, in civil engineering or in mining engineering, or of the McGill College, Montreal, in civil engineering or in mining engineering, and such person shall not be required to pass the preliminary examination hereinbefore required for admission to apprenticeship with a land surveyor, but shall only be bound to serve under articles with a practising land surveyor, duly filed as required by section 32 of this Act, during twelve successive months of actual practice, after which, on complying with all the other requirements, he may undergo the examination prescribed by this Act. R. S. O. 1887, c. 152, s. 14. 60 V. c. 27, s. 7 (1).

Graduates of Royal Military College, Kingston, or of Ontario School of Practical Science, and McGill College, Montreal, to have certain privileges.

29. Such person at any time during his apprenticeship may, with the permission of the Board of Examiners, attend the Ontario School of Practical Science, or any school, college, or university, the course of study in which is in the opinion of the Board, sufficiently similar to that in the Ontario School of Practical Science, for the purposes of taking any course of

Attendance at certain schools during apprenticeship.

study which includes any subjects required for the final examination for admission to practice as a land surveyor, but the total period of such apprenticeship, and of such course of study, shall not exceed the period of two years from the date of the articles of apprenticeship as above mentioned, and not less than twelve months of the said period of two years shall be passed in the actual service of a practising Ontario Land Surveyor. 60 V. c. 27, s. 7 (2).

If surveyor dies, etc., service may be completed with another surveyor.

30. If a surveyor dies or leaves the Province, or is suspended or dismissed, or ceases to practise, his apprentice may complete his term of apprenticeship, under an instrument in writing as aforesaid, with any registered surveyor in actual practice. R. S. O. 1887, c. 152, s. 15. 60 V. c. 27, s. 8.

Instruments of apprenticeship may be transferred.

31. A surveyor may, by an instrument in writing, transfer an apprentice, with his own consent, to another registered surveyor in actual practice with whom he may serve the remainder of the term of his apprenticeship. R. S. O. 1887, c. 152, s. 16. 60 V. c. 27, s. 9.

Instruments binding to service to be filed, etc.

32. No instrument in writing under which an applicant for admission to practise as a surveyor claims to have served with some practising surveyor for the required period shall avail to authorize the admission of an applicant, unless the instrument, has been transmitted to the Secretary of the Board within two months next after the date thereof, nor unless the fee in respect thereof mentioned in section 39 of this Act was by the apprentice paid to the Secretary of the Board at the time of transmitting the indenture or articles; and the said Secretary shall acknowledge by post the receipt of all such instruments or copies thereof transmitted to him, and shall carefully keep the same filed in his office. R. S. O. 1887, c. 152, s. 17. 60 V. c. 27, s. 10.

ADMISSION OF CANDIDATES.

Notice of examination to be given by candidates for admission.

33. Every person desiring to be examined by the Board as to his qualification to be admitted as a land surveyor, shall give notice thereof in writing to the Secretary of the Board, at least one month previous to the meeting thereof. R. S. O. 1887, c. 152, s. 18.

The board to require certificates of good conduct, etc.

34. Every person applying for admission to practise as a land surveyor shall produce to the Board satisfactory certificates as to character for probity and sobriety, and before a certificate is granted shall perform such practical operations in the presence of the Board, and shall answer such questions on oath (which oath any member of the Board may administer) with regard to the actual practice of such applicant in the field, and with regard to his surveying instruments, as the said Board may require. R. S. O. 1887, c. 152, s. 19.

35. If the said examiners are satisfied as to the qualifications of the candidate, and his compliance with all the preliminary requirements of this Act, they shall grant him a certificate in the form following: If the examiners approve of the candidate they are to grant him a certificate.

This is to certify to all whom it may concern, that *A. B.* of in the County of *has* duly passed his examination before the Board of Examiners, and has been found qualified to fill the office and perform the duties of an Ontario Land Surveyor in and for Ontario, he having complied with all the requirements of the law in that behalf. Wherefore the said *A. B.* is admitted to the said office, and is by law authorized to practise as a land surveyor in Ontario.

In witness whereof, we have signed this certificate at the City of Toronto, in the County of York, and Province of Ontario, Dominion of Canada, the day of 18 .

Signature of the Chairman, C. D.

Signature of the Secretary, E. F.

and such certificate shall, on the applicant complying with the other requirements of this Act, entitle him to practise as a land surveyor in and for Ontario. R. S. O. 1887, c. 152, s. 20.

36.—(1) Each applicant, before receiving the above mentioned certificate, shall, with two sufficient sureties to the satisfaction of the said board of examiners, or the Chairman or Secretary thereof, enter into a bond jointly and severally in the sum of \$1,000 to Her Majesty, Her Heirs and Successors, conditioned for the due and faithful performance of the duties of his office. R. S. O. 1887, c. 152, s. 21 (1). 60 V. c. 27, s. 11. Candidates to give security.

(2) The said bond shall be deposited and kept in the manner by law prescribed with regard to bonds given for like purposes by other public officers, and shall enure to the benefit of any party sustaining damage by breach of the condition thereof; and the certificate shall be registered in the office of the Provincial Secretary. R. S. O. 1887, c. 152, s. 21 (2). Where bonds to be deposited.

37.—(1) Each applicant, after having been granted a certificate, shall also take and subscribe the oath of allegiance, and the following oath before the Board of Examiners, or a member thereof specially deputed by the Board for that purpose who are hereby empowered to administer the same: Oaths of allegiance and office.

"I, *A. B.*, do solemnly swear (or affirm, as the case may be) that I will faithfully discharge the duties of a land surveyor, according to law, without favour, affection or partiality: So help me God."

(2) The said oaths of allegiance and of office shall be deposited in the office of the Provincial Secretary. R. S. O. 1887, c. 152, s. 22. 60 V. c. 27, s. 12.

SUSPENSION FOR MISCONDUCT.

38.—(1) The Council may in their discretion suspend or dismiss from the Association any land surveyor whom they Dismissal or suspension of members.

find guilty of gross negligence or corruption in the execution of the duties of his office; but the council shall not take action until a complaint made under oath has been filed with the Secretary-Treasurer, and a copy thereof forwarded to the party accused, nor shall the Council suspend or dismiss such land surveyor without having previously summoned him to appear in order to be heard in his defence, nor without having heard the evidence offered in support of the complaint and on behalf of the surveyor inculpated, and all such evidence shall be taken under oath, which oath the Chairman of the said Council, or person acting as such in his absence, or the Secretary, is hereby authorized to administer, and all such evidence shall be taken down by a duly qualified stenographer, as in the case of evidence taken in the High Court of Justice.

(2) Any surveyor so dismissed or suspended may, within fourteen days after the order or resolution of dismissal or suspension, appeal to a Judge of the High Court against such order or resolution by giving seven days notice to the Council, and may require the evidence taken to be filed in the Central Office of the High Court, and the costs of such appeal shall be in the discretion of the Judge.

(3) Unless the order or resolution shall be set aside or the Judge or Council shall otherwise order, any surveyor so suspended or dismissed shall not have the right to practise as a surveyor until after the appeal shall have been disposed of, except where the time for which he was so suspended shall have expired. 55 V. c. 34, s. 5 (1).

(4) The Council may in their discretion suspend or dismiss from the Association any member, and cause his name to be removed from the register, if such member has upon indictment been convicted of any crime by any court of competent jurisdiction. 60 V. c. 27, s. 24.

(5) If the Council think fit in any case, they may direct the Registrar to restore to the register any name or entry erased therefrom, either without fee or on payment of such fee, not exceeding the arrears of fees due to the Association by such person, as the Council may, from time to time, fix, and the Registrar shall restore the same accordingly. 55 V. c. 34, s. 5 (2); 60 V. c. 27, s. 23.

FEES.

Tariff of fees.

39. The following fees shall be paid to the Secretary-Treasurer for the use of the association:

1. By every person duly authorized to practise as a land surveyor under the provisions of this Act on applying for registration under this Act, the sum of \$1;
2. By each member of this association an annual membership fee of \$4;
3. By each apprentice at the transmitting to the secretary the indenture or articles of such apprenticeship, \$1;

4. By each candidate for examination, with his notice thereof, for receiving and entering such notice, \$1 ;

5. By each applicant obtaining a certificate, as a fee thereon, \$2 ;

6. By each applicant receiving a certificate to practise, as an admission fee, \$30 ;

7. By each apprentice with each transfer of articles as a fee for registering same, \$2 ;

8. By each applicant receiving a certificate to practise, being the fee for official notice in the *Ontario Gazette*, \$1.

55 V. c. 34, s. 7 ; 60 V. c. 27, s. 26.

40. The sum of \$5 shall be paid to every surveyor summoned to attend any civil or criminal court, for the purpose of giving evidence in his professional capacity as a surveyor, for each day he so attends, in addition to his travelling expenses (if any), to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court. R. S. O. 1887, c. 152, s. 25, item 5. Witness fees.

REGISTRATION OF PERSONS ENTITLED.

41. It shall be the duty of the Secretary-Treasurer of the Association as Registrar of the Association, to make and keep a correct register in accordance with the provisions of this Act, as shown in Schedule A hereto of all persons who shall be entitled to be registered under this Act, and to enter opposite the names of all registered persons who shall have died a statement of such fact, and from time to time to make the necessary alterations in the addresses of persons registered, and subject to this Act to keep the register in accordance with the by-laws of the Association and the orders and regulations of the Council. 55 V. c. 34, s. 9 and s. 17 part. How register to be kept.

42.—(1) No person entitled to be registered under this Act, who neglects or omits to be so registered shall be entitled to any of the rights or privileges conferred by registration under the provisions of this Act so long as such neglect or omission continues. Effect of omitting to register.

(2) A registered surveyor desiring to give up practice may have his name removed from the registered list of practitioners at any time upon giving written notice to the Secretary-Treasurer of such desire, and paying up all fees due from him to the Association, and thereafter he shall not be liable to the Association for any annual or other fees, and may, upon like notice of his intention to resume practice and paying the annual fees for the year in which such notice is given, have his name re-registered. Removal of names from list.

(3) No name shall be entered in the register, except of persons authorized by this Act to be registered, nor unless the Registrar is satisfied by proper evidence that the person claiming to be entitled to be registered is so entitled, and any Registrar not to admit improper entries.

appeal from the decision of the Registrar shall be decided by the Council of the said Association, and any entry which shall be proved to the satisfaction of such Council to have been fraudulently or incorrectly made, shall be erased from or amended in the register by order of such Council. 55 V. c. 34, s. 10 (1-3).

(4) The Association may by by-law provide that any surveyor who has been in the actual practice of his profession for a period of thirty-five years or more, and has during the entire period been a duly qualified surveyor, may be exempted from the payment of the annual membership fee to the Association. 55 V. c. 34, s. 10 (4); 60 V. c. 27, s. 27.

Omission to
register
through
absence, etc.

43. Any person who was duly authorized to practise as a surveyor of lands in the Province of Ontario on the 14th day of April, 1892, who through absence, illness or inadvertence, has omitted to become a member of the said Association may be admitted by the Council to enrolment as an Ontario Land Surveyor upon payment of the arrears of fees or such part thereof as the Council may direct. 55 V. c. 34, s. 11 (2).

Penalty for
practising
while
unregistered.

44.—(1) No person, unless registered as above provided, shall be entitled to take or use the name or title of Ontario Land Surveyor, either alone or in combination with any other word or words, or any name, title or description implying that he is registered under this Act.

(2) Any person who, not being registered under this Act, takes or uses such name, title or description as aforesaid, shall be liable on summary conviction to a fine not exceeding \$20 for the first offence, and not exceeding \$50 for each subsequent offence. 55 V. c. 34, s. 11 (3).

A register of
practising
surveyors
to be publish-
ed annually.

45. The Registrar of the Association shall in every year cause to be printed, published and kept for inspection at his office, free of charge, under the direction of the Council, a correct register of the names in alphabetical order, according to the surnames, with the respective residences, in the form set forth in Schedule C to this Act or to the like effect, of all persons appearing on the general register, on the first day of January in every year, and such register shall be called the "Surveyors' Register," and a copy of such register, for the time being, purporting to be so printed and published as aforesaid, shall be evidence in all Courts, and before all Justices of the Peace and others, that the persons therein specified are registered according to the provisions of this Act; Provided always that in the case of any person whose name does not appear in such copy, a certified copy under the hand of the Registrar of the Association of the entry of the name of such person in the register, shall be evidence that such person is registered under the provisions of this Act. 55 V. c. 34, s. 12 (1).

Proviso.

FRAUDULENT REGISTRATION.

46. If the Registrar shall wilfully make, or cause or allow to be made any falsification, in any matters relating to the register, he shall be liable, upon summary conviction thereof, to a fine of not less than \$20 and not more than \$50 besides costs, and in default of payment, to imprisonment for a period of six months, unless the fine and costs shall be sooner paid. 55 V. c. 34, s. 12 (2). Penalty for making improper entries.

47. Any person who wilfully procures or attempts to procure registration under this Act, by making or producing or causing to be produced, or made any false or fraudulent representation or declaration, either verbally or in writing, that he is entitled to such registration, shall be liable, upon summary conviction thereof, to a fine of not less than \$20 and not more than \$50 besides costs, and in default of payment, to imprisonment for a period of six months, unless the fine and costs be sooner paid, and the Council may remove the name of the offender from the registry. 55 V. c. 34, s. 13. Penalty for procuring entry by fraud.

RECOVERY OF FEES AND PENALTIES.

48.—(1) All fees payable under this Act may be recovered as ordinary debts due the Association; and all penalties under this Act may be recovered and enforced before any Justice of the Peace, in the manner directed by *The Ontario Summary Convictions Act*. Recovery of fees and penalties. Rev. Stat. c. 90.

(2) Any sum or sums of money arising from convictions and recovery of penalties as aforesaid, shall be paid immediately upon the recovery thereof, by the convicting Magistrate to the Registrar of the Association.

(3) Any person may be prosecutor or complainant under this Act, and the Council may allot such portion of the penalties as they may deem expedient towards the payment of such prosecutor. 55 V. c. 34, s. 14.

NOTICES AND DOCUMENTS.

49.—(1) Subject to the other provisions of this Act, all notices and documents required by, or for the purposes of this Act to be sent, may be sent by post by registered letter, and shall be deemed to have been received at the time when the letter containing the same would be delivered in the ordinary course of mail, and in proving such sending it shall be sufficient to prove that the letter containing the notice or document was prepared and properly addressed and mailed. Notices and documents may be mailed.

(2) Such notices and documents may be in writing or in print, or partly in writing and partly in print and when sent to the Council or other authorities, shall be deemed to be in writing and addressed.

properly addressed if addressed to the said Council or authorities, or to some officer of the Council or authority at the principal place of business of the Council or authority, and when sent to a person registered under this Act, shall be deemed to be properly addressed if addressed to him according to his address registered in the register of the Association. 55 V. c. 34, s. 15.

HOW FUNDS TO BE APPLIED.

How fees,
etc., to be
applied.

50.—(1) All moneys arising from fees payable on registration, or from the annual fees, or from the sale of copies of the register or otherwise shall be paid to the Registrar of the Association to be applied in accordance with such regulations as may be made by the Council for defraying the expenses of registration, and other expenses of the execution of this Act.

Investment
in securities.

(2) The Council shall have power to invest any sum not expended as above, in such securities as shall be approved of by the Government of the Dominion of Canada or of the Province of Ontario, in the name of any three of their number appointed as trustees, and any income derived from any such invested sums shall be added to and considered as part of the ordinary income of the Association.

In certain
buildings.

(3) The Association may also use surplus funds or invested capital for the rental or purchase of land or premises, or for the building of premises to serve as offices, examination halls, lecture rooms, libraries, or for any other public purpose connected with land surveying. 55 V. c. 34, s. 16.

Accounts to
be kept and
audited.

51. The Secretary-Treasurer and Registrar of the Association, shall enter in books to be kept for that purpose a true account of all sums of money by him received and paid under this Act and such account shall be audited by the auditors, and submitted to the Council and Association at such time or times as they may require. 55 V. c. 34, s. 17 part.

SCHEDULE A.

(Section 41)

FORM OF REGISTER.

NAME.	Residence. P. O. address	Qualifica- tions and additions.	When ad- mitted	When ceased to practice.	When died.

55 V. c. 34, Sched. A.

SCHEDULE B.

(Section 11.)

FORM OF VOTING PAPER.

Association of Ontario Land Surveyors Election 18 .

I, _____ of the _____
in the county of _____
member of the Association of Ontario Land Surveyors, do hereby declare,

- (1) That the signature affixed hereto is in my proper handwriting.
- (2) I vote for *A. B.*, of the _____ of _____
in the county of _____, as president, vice-president
secretary-treasurer, auditor or auditors, as the case may be.)
- (3) I vote for the following persons as members of the council of
management of the association of Ontario Land Surveyors :— *A. B.*, of the _____
of _____ in the county of _____, and
C. D., of the _____ of _____ in the county
of _____,

- (4) That I have signed no other voting paper at this election.
- (5) That this voting paper was executed on the day of the date
thereof.
Witness my hand this _____ day of _____, A.D. 18

55 V. c. 34 Sched. B.

SCHEDULE C.

(Section 45)

SURVEYORS' ANNUAL REGISTER, 1ST JANUARY, 18 ,

NAME.	Residence. P. O. address.	Qualifications and additions

55 V. c. 34, Sched. C.

CHAPTER 181.

An Act respecting the Survey of Lands.

SHORT TITLE, s. 1.

CERTAIN BOUNDARY LINES VALID, s. 2.

STANDARD OF MEASURE, ss. 3, 4.

CHAIN-BEARERS—OATH OF, s. 5.

POWER TO PASS OVER LANDS IN DIS-
CHARGE OF DUTY, s. 6.

SURVEY OF BOUNDARY LINES, ss. 7-38.

PRIVATE SURVEYS IN CITIES, TOWNS
AND VILLAGES, ss. 39-42.

ROAD ALLOWANCES, s. 39.

JOURNALS AND FIELD NOTES, s. 40.

ADMINISTRATION OF OATHS, s. 41.

MANNER OF TAKING EVIDENCE, s. 42.

OFFENCES AND PENALTIES UNDER
C. S. C. c. 77, s. 31.

1. This Act may be cited as "*The Surveys Act*."

Short title.

CERTAIN BOUNDARY LINES DECLARED VALID.

2. All boundary or division lines legally established, and ascertained under the authority of Ordinances or Acts heretofore in force, shall remain good, and all other acts or things legally done and performed under the authority of the said Ordinances or Acts, or any of them, and in conformity to the provisions thereof, shall remain good and valid notwithstanding the repeal of any such Ordinance or Act. R. S. O. 1887, c. 152, s. 26.

Boundary
lines hereto-
fore establish-
ed confirmed.

STANDARD OF MEASURE.

3. The standard of English measure of length, compared with and corrected by the standards for such measures established in this Province, and procured by the Commissioner of Crown Lands for the purpose of comparing therewith the standards to be kept by each surveyor as hereinafter provided, shall be deposited with the Secretary of the Board of Examiners at Toronto, and the said Secretary, under such instructions as he from time to time receives from the Board, shall examine, test and stamp each standard measure of length for the surveyors, who bring the same for examination, in the same manner as the Commissioner of Crown Lands may do and with the same effect; and for each measure so examined and stamped such Secretary may demand and receive such sum not less than fifty cents, nor more than \$2, as the Council of Management of the Association of Ontario Land Surveyors may by-law determine. R. S. O. 1887, c. 152, s. 27; 60 V. c. 27, s. 13.

The standards
of measure
regulated.

Surveyors to procure a stamped standard measure of length.

4. Every Ontario Land Surveyor duly admitted and practising shall procure and shall cause to be examined, corrected and stamped or otherwise certified by the Commissioner of Crown Land, or some one deputed by him for that purpose, or by the Secretary aforesaid, a standard measure of length, under the penalty of the forfeiture of his license or certificate, and shall, previously to proceeding on any survey, verify by such standard the length of his chains and other instruments for measuring. R. S. O. 1887, c. 152, s. 28.

CHAIN-BEARERS.

Chain-bearers to be sworn, and oath to be taken.

5. Every chain-bearer shall, before he commences his chaining or measuring, take an oath or affirmation to act as such justly and exactly according to the best of his judgment and ability and to render a true account of his chaining or measuring to the surveyor by whom he has been appointed to such duty, and that he is absolutely disinterested in the survey in question, and is not related or allied to any of the parties interested in the survey within the fourth degree, according to the computation of the civil law—that is to say, within the degree of cousin-german, which oath the surveyor employing such chain-bearer is hereby authorized and required to administer; and no person related or allied to any of the parties within the said degree shall be employed as a chain-bearer on any survey. R. S. O. 1887, c. 152, s. 29.

No one within degree of first cousin to parties to be employed.

PASSING OVER OTHER LANDS.

When land surveyors may pass over private lands.

6. A land surveyor, when engaged in the performance of the duties of his profession, may pass over, measure along and ascertain the bearings of any line or limit whatsoever, and for such purposes may pass over the lands of any person whomsoever, doing no actual damage to the property of such person. R. S. O. 1887, c. 152, s. 30.

DETERMINING BOUNDARY LINES.

Course to be adopted by surveyors to ascertain boundary line, when doubtful, etc.

7. Where a surveyor is in doubt as to the true boundary or limit of any township, concession, range, lot or tract of land which he is employed to survey, and has reason to believe that any person is possessed of any important information touching such boundary or limit, or of any writing, plan or document tending to establish the true position of such boundary or limit, then if such person does not willingly appear before and be examined by such surveyor, or does not willingly produce to him such writing, plan or document, such surveyor or the party employing him may file in the office of the County Court a precept for a subpoena or subpoena *duces tecum*, as the case may require, accompanying such application by an affidavit or solemn declaration to be made before a Justice of the Peace, of the facts on which the application is founded, and the Judge

May subpoena witnesses.

may order a subpoena to issue accordingly, commanding such person to appear before the surveyor, at a time and place to be mentioned in the said subpoena and to bring with him any writing, plan or document mentioned or referred to therein. R. S. O. 1887 c. 152, s. 31.

8. The subpoena shall be served on the person named therein by delivering a copy thereof to him, or by leaving the same for him with some grown-up person of his family at his residence, exhibiting to him or to such grown-up person the original. R. S. O. 1887, c. 152, s. 32.

Service of
subpoena.

9. If the person commanded to appear by the subpoena, after being paid his reasonable expenses, or having the same tendered to him, refuses or neglects to appear before the surveyor at the time and place appointed in the subpoena, or to produce the writing, plan or document (if any) therein mentioned or referred to, or to give such evidence and information as he may possess touching the boundary or limit in question, the person so summoned shall be deemed guilty of a contempt of the Court out of which the subpoena issued, and an attachment may be issued against him by the Judge of the said Court, and he may be punished accordingly, by fine or imprisonment, or both, in the discretion of the Judge. R. S. O. 1887, c. 152, s. 33.

Penalty
of disobeying

10. Stone monuments, or monuments of other durable materials, shall be placed at the several corners, governing points or off-sets of every township already surveyed, or after this Act takes effect from time to time surveyed, and also at each end of the several concession lines of such townships; and lines drawn in the manner hereinafter prescribed from the monuments so erected, shall be taken and considered to be the permanent boundary lines of such townships and concessions respectively. R. S. O. 1887, c. 152, s. 34.

Stone monuments to be placed at certain points in townships.

11. The monuments to be placed as above mentioned shall be so placed under the direction and order of the Commissioner of Crown Lands. R. S. O. 1887, c. 152, s. 35.

Under direction of Commissioner of Crown Lands.

12. The courses and lengths of the said boundary lines, so ascertained and established, shall on all occasions be the true courses and lengths of the boundary lines of the said townships and concessions, whether the same do or do not, on actual survey, coincide with the courses and lengths mentioned and expressed in respect of such boundary lines in any letters patent of grant or other instrument. R. S. O. 1887, c. 152, s. 36.

Boundaries ascertained as aforesaid to be deemed the true ones.

13. It shall not be necessary for the Commissioner of Crown Lands to proceed to carry the provisions of the last preceding three sections of this Act into execution, until an application for

Monuments need not be placed under ss. 10-12 ex

cept on the application of the county council.

that purpose has been made to the Lieutenant-Governor, by the council of the county in which the township or townships interested is situate, and such council shall cause the sum requisite to defray the expenses to be incurred, or the proportion thereof payable by the inhabitants of any township or concession, to be levied on the said inhabitants, in the same manner as any sum required for any other local purpose authorized by law may be levied. R. S. O. 1887, c. 152, s. 37.

In what cases the township council may apply to have monuments placed to mark concession and side road lines.

14.—(1) Whereas in several of the townships in Ontario some of the concession lines, and side road lines, or parts of the concession lines and side road lines were not run in the original survey performed under competent authority, and the survey of some of the concession lines and side road lines, or parts of the concession lines and side road lines have been obliterated, and owing to the want of such lines the inhabitants of such concessions are subject to serious inconvenience, therefore the municipal council of the township in which such lines are situated, may, on application of one-half the resident landholders in any concession, or part of a concession, or upon its own motion without such application, apply to the Lieutenant-Governor, requesting him to cause any such line or lines to be surveyed and marked by permanent stone or iron boundaries under the direction and order of the Commissioner of Crown Lands, in the manner prescribed in this Act, at the cost of the proprietors of the lands in each concession or part of a concession interested.

Depth of adjacent concessions.

(2) The concession lines, where not run, or where they have been obliterated, shall be so drawn as to leave each of the adjacent concessions of a depth proportionate to that intended in the original survey.

How lines to be established.

(3) The survey of the parts of those concession lines intended to be straight, and which were not run or which have been obliterated, shall be established by drawing a straight line between the two nearest points or places where such line or lines can be clearly and satisfactorily ascertained. R. S. O. 1887, c. 152, s. 38 (1-3).

Commissioner of Crown Lands may confirm survey after which the lines to be the permanent boundaries.

(4) On the return of such survey to the Commissioner of Crown Lands, he shall cause a notice thereof to be advertised once in each week for four weeks in some newspaper published in the county town of the county in which the lands lie; and shall specify in the advertisement a day not less than ten days from the last publication on which the report of the survey will be considered, and the parties affected thereby heard, and on the hearing the Commissioner may either confirm the survey or direct such amendments or corrections to be made as shall seem just, and shall confirm the survey so amended or corrected, and the lines or parts of the lines so surveyed and marked as aforesaid, shall thereafter be the permanent boundary lines of such concession or side roads or part of concessions or side roads, to all intents and purposes of law, whatsoever, and the

order of the said Commissioner confirming the said survey shall be final and conclusive upon all parties, and shall not be questioned in any court whatsoever. 60 V. c. 27, s. 14.

(5) The council shall cause to be laid before them an estimate of the sum requisite to defray the expenses to be incurred in order that the same may be levied on the said proprietors, in proportion to the quantity of land held by them respectively in such concession or part of a concession, in the same manner as any sum required for any other purposes authorized by law may be levied. R. S. O. 1887, c. 152, s. 38 (5). Expenses to be estimated and provided for.

15.—(1) Whenever the municipal council of any township, city, town or incorporated village adopts a resolution, on application of one-half the resident landholders to be affected thereby, or upon its own motion, that it is desirable to place stone or other durable monuments at the front or at the rear, or at the front and rear angles of the lots in any concession or range or block or part of a concession, or range or block in their township, city, town, or incorporated village, such municipal council may make application to the Lieutenant-Governor, in the same manner as is provided in section 14, praying him to cause a survey of such concession or range or block, or part of a concession or range or block, to be made, and such boundaries to be planted, under the authority of the Commissioner of Crown Lands. R. S. O. 1887, c. 152, s. 39 (1). Municipal councils may have the boundaries of lots ascertained and marked.

(2) The surveyor making such survey shall accordingly plant stone or other durable monuments at the front, or at the rear, or at the front and rear angles of each and every lot in such concession or range or block, or part of a concession or range or block, and after confirmation of the survey in the manner provided in the fourth subsection of the preceding section, the limits of each lot so ascertained and marked shall be the true limits thereof. R. S. O. 1887, c. 152, s. 39 (2); 60 V. c. 27, s. 15. Boundaries to be marked with monuments.

(3) The cost of such survey shall be defrayed in the manner prescribed by section 14 of this Act. R. S. O. 1887, c. 152, s. 39 (3). How cost to be defrayed.

16. All expenses incurred in making any survey, or placing any monument or boundary under the provisions of section 10 and the following sections, shall be paid by the treasurer of the municipality which made the application for the survey, to the person or persons employed in such services, on the certificate and order of the Commissioner of Crown Lands. R. S. O. 1887, c. 152, s. 40; 60 V. c. 27, s. 16. Municipal treasurer to pay in first instance.

17. All boundary lines of townships, cities, towns and villages, all concession lines, governing points, and all boundary lines of concessions, sections, blocks, gores and commons, and all side lines and limits of lots surveyed, and all trees marked Boundaries placed under the authority of the Governor are to be deemed the true ones, etc.

in lieu of posts and all posts or monuments, marked, placed or planted at the front or rear angles of any lots or parcels of land, under the authority of the Executive Government of the late Province of Quebec or of Upper Canada or of Canada, or under the authority of the Executive Government of this Province, shall be the true and unalterable boundaries of all and every such townships, cities, towns, villages, concessions, sections, blocks, gores, commons, and lots or parcels of land, respectively, whether the same upon admeasurement be found to contain the exact width, or more or less than the exact width mentioned or expressed in any letters patent, grant or other instrument in respect of such township, city, town, village, concession, section, block, gore, common, lot or parcel of land. R. S. O. 1887, c. 152, s. 41.

Townships, etc., to embrace the width between the front posts.

18. Every township, city, town, village, concession, section, block, gore, common, lot or parcel of land, shall embrace the whole width, contained between the front posts, monuments or boundaries, planted or placed at the front angles thereof respectively, so marked, placed or planted as aforesaid, and no more nor less, any quantity or measure expressed in the original grant or patent thereof notwithstanding. R. S. O. 1887, c. 152, s. 42.

As to aliquot parts of townships, etc.

19. Every patent, grant or instrument, purporting to be for any aliquot part of any concession, section, block, gore, common, lot or parcel of land in any such township, city, town or village, shall be construed to be a grant of such aliquot part of the quantity the same may contain, whether such quantity be more or less than that expressed in such patent, grant or instrument. R. S. O. 1887, c. 152, s. 43.

Road allowances in cities, etc., to be public highways.

20. In every city, town or village, or any part thereof, which has been surveyed by the authority aforesaid, all allowances for any road, street, lane or common laid out in the original survey of such city, town or village, or any part thereof, shall be public highways and commons; and all posts or monuments placed or planted in the original survey of such city, town or village, or any part thereof, to designate or define any allowance for a road, street, lane, lot or common, shall be the true and unalterable boundaries of every such road, street, lane, lot and common; and all land surveyors, employed to make surveys in such city, town or village, or any part thereof, shall follow and pursue the same rules and regulations in respect of such surveys as is by law required of them when employed to make surveys in townships. R. S. O. 1887, c. 152, s. 44.

Monuments on original survey to govern.

As to unsurveyed lands granted in blocks and subsequently surveyed by the grantees.

21. All surveys of townships, tracts or blocks of land in this Province, granted by the Crown to companies and individuals before any surveys had been made therein, and which were afterwards surveyed by the owners thereof, shall be original surveys thereof, and shall have the same force and

effect as though the said original surveys and the plans thereof had been made by competent authority ; and all allowances for roads or commons surveyed in such townships, tracts or blocks of land, and laid down on the plans thereof, shall be public highways and commons ; and all lines run and marked in such original surveys, and all posts or monuments planted or placed in such original surveys to designate and define any allowance for road, concession, common or lot of land, shall be the true and unalterable lines and boundaries of such allowance for road, common or lot of land ; and all land surveyors, when employed to make surveys in such townships, tracts or blocks of land, shall follow and pursue the same rules and regulations in respect of such townships, tracts or blocks of land, and the original surveys thereof, as they are by law required to follow and pursue in all townships, tracts or blocks of land surveyed by the authority aforesaid. R. S. O. 1887, c. 152, s. 45.

22. The course of the boundary line of each and every concession, on that side from which the lots are numbered, shall be the course of the division or side lines throughout the several townships or concessions respectively, provided that such division or side lines were intended, in the original survey performed under such authority as aforesaid, to run on the same course as the said boundary. Governing lines declared. R. S. O. 1887, c. 152, s. 46.

23. Every surveyor shall run all division or side lines, which he is called upon by the owner or owners of any lands to survey on the same course as that boundary line of the concession in which such lands are situate, from whence the lots are numbered as aforesaid, provided such division or side lines were intended, in the original survey performed under such competent authority as aforesaid, to run on the same course as the said boundary. All side lines to be run on the same course as governing lines. R. S. O. 1887, c. 152, s. 47.

24. Where that end of a concession, from which the lots are numbered, is wholly bounded by a lake or river, or other natural boundary, or where it has not been run in the original survey performed under competent authority as aforesaid, or where the course of the division or side lines of the lots therein was not intended in the original survey performed as aforesaid, to be on the same course as such boundary, the said division or side lines shall be run on the same course as the boundary line at the other extremity of such concession, provided their course was intended, in the original survey performed as aforesaid, to be the same, and that such boundary line was run in the original survey. Course to be adopted where concession bounded by lakes or rivers. R. S. O. 1887, c. 152, s. 48.

25. Where in the original survey, performed under competent authority as aforesaid, the course of the division or side lines in any concession was not intended to be on the same course as the boundary line at either end of such concession, they shall be run at such angle with the course of the boundary Where division or side lines not intended to run on the same course as the side

lines at either end of a concession.

line at that end of the concession from which the lots are numbered, as is stated in the plan and field notes of the original survey, of record in the Department of Crown Lands, provided such line was run in the original survey as aforesaid, or with the course of the boundary line at the other extremity of the said concession, if the boundary at that end of the concession from which the lots are numbered was not run in the original survey; or if neither of the aforesaid boundaries of the concession was run in the original survey, or if the concession is wholly bounded at each end by a lake or river, or other natural boundary, then at such angle with the course of the line in front of the said concession as is stated in the plan and field notes aforesaid, or if parts of the concession line have been run on different courses as shewn on said plans and field notes, then at such angle with the course of each of these parts, as is stated in the plan and field notes aforesaid. R. S. O. 1887, c. 152, s. 49.

Where a division or proof line has been run between lots, the same shall govern.

26. If any division or side line between lots, or proof line intended to be on the same course as the division or side lines between lots, was drawn in any such concession, bounded as aforesaid, in the original survey thereof, the division or side lines between the lots therein shall be on the same course as such division or side line or proof line. R. S. O. 1887, c. 152, s. 50.

Where there are two of such lines, the line nearest the end of the concession, from which the lots are numbered, to govern to the next of such lines.

27. Where two or more such division or side lines or proof lines were drawn in the original survey of such concession, bounded as aforesaid, that division or side line or proof line which is nearest to the boundary of the concession from which the lots are numbered, shall govern the course of the division or side lines of all the lots in such concession between the boundary of the concession from which the lots are numbered, and the next division or side line or proof line drawn in the original survey; and such last mentioned line or proof line shall govern the course of the division or side lines of all the lots up to the next division or side line or proof line drawn in the original survey, or to the boundary of the concession towards which the lots are numbered, as the case may be. R. S. O. 1887, c. 152, s. 51.

How lines to be governed in townships laid out in sections under the O. C. of the 27th March, 1829, etc.

28.—(1) Except as provided in the next subsection, in all those townships which in the original survey were divided into sections, agreeably to an Order in Council bearing date the 27th day of March, 1829, or which have since been or shall be divided into sections or blocks of one thousand acres, or thereabouts, or six hundred and forty acres or thereabouts, as the case may be, under instructions from the Commissioner of Crown Lands, the division or side lines in all concessions, in any section or block, shall be governed by the boundary lines of such section or block, in like manner as the division or side lines in townships originally surveyed before

the said day, are governed by the boundary lines of the concession in which the lots are situated: Provided that in those sections or blocks the governing boundaries of which are broken by lakes or rivers in such a way that the course thereof cannot accurately be determined, a surveyor when called upon to run any side line in any concession in such section or block, shall run such side line on the astronomical course of the side lines of the lots in the township, as shewn on the original plan and field notes thereof, of record in the Department of Crown Lands. R. S. O. 1887, c. 152, s. 52.

(2) On and after the 1st day of July, 1897, the lines between all lots in the following townships, namely, all townships in the Districts of Muskoka and Parry Sound; all townships in the District of Nipissing, which lie south of the Mattawan River and Trout Lake, and the Township of Mattawan in the said district; all townships in the Provisional County of Haliburton; the Townships of Dalton, Digby and Longford, in the County of Victoria; the Townships of Galway, Cavenish, Anstruther and Chandos, in the County of Peterborough; the Townships of Tudor, Grimsthorp, Wollaston, Limerick, Cashel, Faraday, Dungannon, Mayo, Herschell, Monteagle, Carlow, McClure, Wicklow and Bangor, in the County of Hastings; the Townships of Anglesea, Effingham, Abinger and Denbigh, in the County of Lennox and Addington; the Townships of Barrie, South Canonto and North Canonto, in the County of Frontenac, and the Townships of Brougham, Grattan, Wilberforce, Alice, Mattawachan, Griffith, Sebastopol, South Algona, North Algona, Fraser, Richards, Hagarty, Brudenell, Lyndoch, Raglan, Radcliffe Sherwood, Burns and Jones, in the County of Renfrew, shall be run on the astronomic course stated in the plan and field notes of the original survey of record in the Department of Crown Lands, but nothing contained in this subsection shall affect the lines in any block in any of the above townships in which any line shall have been run prior to the 1st day of July, 1897.

(3) Every surveyor shall on the 31st day of December, 1897, and on the 31st day of December in each year thereafter, make to the township clerk a return according to the form given in the Schedule to this Act of all lines run by him in any of the aforesaid townships under the provisions of the above next preceding subsection. 60 V. c. 27, s. 17.

29. Whenever an Ontario Land Surveyor is employed to run any boundary line of, or any dividing line or limit between any sections, quarter-sections, or other aliquot parts of any section in any of the following townships, namely, any township in the Rainy River district subdivided into sections, in accordance with the Dominion Lands system of survey, or in any of the following townships and parts of townships in the Districts of Algona and Rainy River, namely, Rutherford, Salter, Victoria, all that portion of Shedden south of the fourth concession, the Townships

Proviso.

Exceptions

Surveyors to make returns to township clerk.

Proceedings where monuments or posts cannot be found in certain townships.

of Spragge, Esten, Thompson, all that portion of Patton south of the third concession, the Townships of Thessalon-River, Lefroy, Rose, Laird, Meredith, Macdonald, Tarentorus, Aweres, Van-koughnet, Awenge, Korah, Pennefather, Fenwick, sections 31 to 36, both inclusive, of the Township of Havilland, the Townships of Tilley, Parke, Prince, Dennis, Kars, Fisher, Palmer, Herrick, Ryan, Blake, Crooks, Pardee, McIntyre, Macgregor, McTavish, Homer and Byron, and the post or monument planted, erected or marked in the original survey to define the corner of such section, quarter-section or other aliquot part cannot be found, such surveyor shall obtain the best evidence that the nature of the case admits of respecting such post or monument, but if the position of the same cannot be satisfactorily so ascertained he shall proceed as follows:—

1. If the lost post or monument is that of a township corner, he shall report the circumstances of the case to the Commissioner of Crown Lands, who shall instruct him how to proceed;

2. If the lost post or monument is that of a section or quarter-section corner on the boundary line of a township, he shall renew the same by joining the nearest original blazes, quarter-section or section corners on such boundary by a straight line, and shall give to each section or quarter-section a breadth proportionate to that shown on the original plan and field notes thereof, of record in the Department of Crown Lands, having first taken into account and made due allowance for the road or roads, if any, shewn on the said plan and field notes;

3. If the lost post or corner is that of a section in the interior of a township, he shall renew the same by intersecting the straight lines joining the nearest original blazes, or original quarter-section or section corners, on the adjoining intersecting section boundaries. Where the nearest section corner on any side of the lost post or monument is on a township boundary, and when that post or monument is lost, and also the intervening quarter-section posts or monuments, and where there are no original blazes between said corners, the surveyor shall first renew the said section corner or corners on such township boundary in accordance with the provisions of the next preceding clause;

4. If the lost post or corner is that of a quarter-section in the interior of a township, he shall renew the same by joining the nearest original blazes or adjacent section corners (determined, if necessary, as aforesaid), and shall give to each of the adjacent quarter-sections a breadth proportionate to that shewn on the original plan and field notes aforesaid;

5. In laying out interior boundaries of half-sections or of quarter-sections he shall connect the opposite quarter-section corners (determined, if necessary, as aforesaid) by straight lines;

6. In laying out interior boundaries of other aliquot parts of any section he shall give to each aliquot part its proportionate share of breadth and interior depth and connect the resulting terminal points by straight lines. 60 V. c. 27, s. 18.

30. The front of each concession in any township, where only a single row of posts has been planted on the concession lines, and the lands have been described in whole lots, shall be that end or boundary of the concession which is nearest to the boundary of the township from which the several concessions thereof are numbered; and when the line in front of any such concession was not run in the original survey, the division or side lines of the lots in such concession shall be run from the original posts or monuments placed or planted on the front line of the concession in the rear thereof, on the same course as the governing line determined as aforesaid, to the depth of the concession, that is, to the centre of the space contained between the lines in front of the adjacent concessions, if the concessions were intended in the original survey to be of an equal depth, or, if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field notes thereof of record in the Department of Crown Lands, having due respect to any allowance for a road or roads made in the original survey; and a straight line joining the extremities of the division or side lines of any lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the lot which was not run in the original survey. R. S. O. 1887, c. 152, s. 53.

What shall be deemed the front of a concession where only a single row of posts planted.

Side lines in such cases.

31. In those townships in which any concession is wholly bounded in front by a river or lake, where no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the width in front of the lots in the broken front concessions, the division or side lines of the lots in such broken front concessions shall be drawn from the posts or other boundaries on the concession line in rear thereof, on the same course as the governing line, determined as aforesaid, to the river or lake in front. Where any concession is bounded in front at either end, in part though not wholly, by a river or lake, and no posts or other boundaries were planted in the original survey on the bank of such river or lake to regulate the widths of the lots broken by said river or lake, the division or side lines of said broken lots shall be drawn from points on the rear of the concession determined by measuring off the widths proportionately as intended in the original survey, from the intersection of the division or side line of the last whole lot of the original survey with the rear line of said concession, on the same course as the governing line, determined as aforesaid, to the river or lake in front. R. S. O. 1887, c. 152, s. 54.

In townships fronting on a river or lake, how division lines to be drawn if no posts planted to mark the width of lots.

Concessions
with double
fronts.

32. In those townships in which the concessions have been surveyed with double fronts, that is, with posts or monuments planted on both sides of the allowances for roads between the concessions, and the lands have been described in half lots, the division or side lines shall be drawn from the posts at both ends to the centre of the concession, and each end of such concession shall be the front of its respective half of such concession, and a straight line joining the extremities of the division or side lines of any half lot in such concession, drawn as aforesaid, shall be the true boundary of that end of the half lot which has not been bounded in the original survey. R. S. O. 1887, c. 152, s. 55.

Mode of drawing lines in double fronted concessions not of full depth.

33. And whereas some of the double front concessions are not of the full depth, and doubts have arisen as to the manner in which the division or side lines in such concessions should be established:—Therefore, in such concessions the division or side lines shall be drawn from the posts at both ends thereof, to the centre of the concession, as provided in the last preceding section of this Act, without reference to the manner in which the lots or parts of lots in such concession have been described for patent. R. S. O. 1887, c. 152, s. 56.

Side lines in concessions where alternate concession lines only have been run; and depth of each concession.

34. In those townships in which each alternate concession line has only been run in the original survey, but with double fronts as aforesaid, the division or side lines shall be drawn from the posts or monuments on each side of such alternate concession lines to the depth of a concession—that is, to the centre of the space contained between such alternate concession lines, if the concessions were intended in the original survey to be of an equal depth, or if they were not so intended, then to the proportionate depth intended in the original survey, as shewn on the plan and field-notes thereof of record in the Department of Crown Lands; and each alternate concession line as aforesaid shall be the front of each of the two concessions abutting thereon. R. S. O. 1887, c. 152, s. 57.

As to lands in adjoining concessions included in the same grant.

35. In cases where any Crown patent of grant, or other instrument, has been issued for several lots or parcels of land in concessions adjoining each other, the side lines or limits of the lots or parcels of land therein mentioned and expressed, shall commence at the front angles of such lots or parcels of land respectively, and shall be run as hereinbefore provided, and shall not continue on in a straight line through several concessions—that is to say, each lot or parcel of land shall be surveyed and bounded according to the provisions of this Act, independently of the other lots or parcels mentioned in the same grant or instrument. R. S. O. 1887, c. 152, s. 58.

Division lines to be run on same astronomic course as straight line

36. Every land surveyor employed to run any division line between lots, or any line required to run on the same astronomic course as any division line or side line in the concession in

which the land to be surveyed lies, shall run such division line or side line on the same astronomic course (which he shall determine by astronomic observation or by other satisfactory method) as the straight line joining the front and rear ends of the governing boundary line of the concession or section, if so intended in the original survey, or at such angle therewith as is stated in the plan and field notes as aforesaid, which shall be deemed to be the true course of the said governing or boundary line for all the purposes of this Act, although such governing or boundary line as marked in the field be curved or deviate otherwise from a straight course, and if a line is to be run at any angle with a front line or other line which is not straight, the ends of such front or other line shall be joined as above provided. 60 V. c. 27, s. 19.

joining front
and rear ends
of governing
lines.

37.—(1) In all cases where a land surveyor is employed to run any side line or limits between lots, and the original post or monument from which such line should commence cannot be found, he shall obtain the best evidence that the nature of the case admits of, respecting such side line, post or limit; but if the same cannot be satisfactorily ascertained, then the surveyor shall measure the true distance between the nearest undisputed posts, limits or monuments, and divide such distance into such number of lots as the same contained in the original survey, assigning to each a breadth proportionate to that intended in the original survey, as shewn in the plan and field-notes thereof, of record in the Department of Crown Lands; and if any portion of the line in front of the concession in which such lots are situate, or boundary of the township in which such concession is situate, has been obliterated or lost, then the surveyor shall run a line between the two nearest points or places, where such line can be clearly and satisfactorily ascertained, in the manner provided in this Act, and shall plant all such intermediate posts or monuments as he may be required to plant, in the line so ascertained, having due respect to any allowance for a road or roads, common or commons, set out in the original survey; and the limits of each lot so found shall be the true limits thereof.

Cases where
the original
post or monument
cannot
be found, pre-
vided for.

(2) In double front or alternate concessions, where an original post or monument cannot be found, any original post still standing, or the position of which is satisfactorily established on the opposite side of the concession road allowance or on the centre line thereof, shall constitute the best evidence within the meaning of the preceding sub-section for the purpose of establishing the position of such missing post or monument. R. S. O. 1887, c. 152, s. 60.

38. In those townships in which the side lines of the lots were drawn in the original survey, every Ontario Land Surveyor when called upon to determine any disputed boundary in any of such townships, shall ascertain and establish the divi-

If side lines
were drawn in
original sur-
vey, the same
to be adhered
to.

sion or side lines of the lots, by running such side lines as they were run in the original survey whether the same were in the original survey run from the front of the concession to the rear, or from the rear of the concession to the front, and shall adhere to all posts, limits or monuments, planted on the division or side lines in the original survey, as being or designating corners of lots under such original survey. R. S. O. 1887, c. 152, s. 61.

As to allowances for roads or streets in cities, towns, villages or townships laid out by private owners.

39.—(1) All allowances for roads, streets or commons, surveyed in cities, towns, villages and townships, or any part thereof, which have been or may be surveyed and laid out by companies and individuals and laid down on the plans thereof, and upon which lots of land fronting on or adjoining such allowances for roads, streets, or commons have been or may be sold to purchasers, shall be public highways, streets, and commons; and all lines which have been or may be run, and the courses thereof given in the survey of such cities, towns, villages and townships or any part thereof, and laid down on the plans thereof, and all posts or monuments which have been or may be placed or planted in the first survey of such cities, towns, villages and townships, or any part thereof, to designate or define any allowances for roads, streets, lots or commons, shall be the true and unalterable lines and boundaries thereof respectively; and all land surveyors employed in establishing or re-establishing the boundaries of any road, street, common, or lot, shewn on such plan, or on any registered plan in such city, town, village or township, or any part thereof, shall follow the method adopted in making the original survey of the same, as shewn by the said plan, and shall give to each lot the exact or proportionate dimensions as shewn on the said plan: Provided that the municipal corporation shall not be liable to keep in repair any road, street, bridge or highway laid out by any private person until established by by-law of the corporation or otherwise assumed for public use by such corporation, as provided in *The Municipal Act*. R. S. O. 1887, c. 152, s. 62. (1); 60 V. c. 27, s. 20.

Proviso.

Rev. Stat. c. 223.

City, town or village lots not to be laid out so as to interfere with any allowance for roads.

(2) No lot or lots of land in such cities, towns and villages shall be so laid out as to interfere with, obstruct, shut up, or be composed of any part of any allowance for road, common or commons, which were surveyed and reserved in the original survey of the township or townships wherein such cities, towns or villages, are or may be situate.

No private survey valid unless made by a licensed surveyor.

(3) No such private survey shall be valid unless performed by a duly authorized surveyor. R. S. O. 1887, c. 152, s. 62. (2, 3.)

Surveyors to keep regular journals and field-notes and furnish copies to parties interested.

40. Every land surveyor shall keep exact and regular journals and field notes of all his surveys, and file them in the order of time in which the surveys have been performed, and shall give copies thereof to the parties concerned when so required, for which he may charge the sum of \$1 for each copy,

if the number of words therein does not exceed four hundred words, but if the number of words exceeds four hundred, he may charge ten cents additional for every additional hundred words. R. S. O. 1887, c. 152, s. 70.

41. For better ascertaining the original limits of any township, concession, range, lot, or tract of land, every land surveyor acting in this Province, shall and may administer an oath to any person whom he examines concerning any boundary, post or monument, or any original landmark, line, limit or angle of any township, concession, range, lot or tract of land which such surveyor is employed to survey. R. S. O. 1887, c. 152, s. 71.

42. All evidence taken by a surveyor as aforesaid shall be reduced to writing, and shall be read over to the person giving the same, and be signed by such person, or, if he cannot write, such person shall acknowledge the same as correct before two witnesses, who, as well as the surveyor, shall sign the same; and such evidence shall, and any document or plan prepared and sworn to as correct before a Justice of the Peace, by a surveyor, with reference to any survey by him performed may be, filed and kept in the registry office of the registry division in which the lands to which the same relates are situate, subject to be produced thereafter in evidence in any Court within Ontario; and for receiving and filing the same the registrar shall be entitled to twenty-five cents; and the expense of filing the same shall be borne by the parties in the same manner as the other expenses of the survey. R. S. O. 1887, c. 152, s. 72.

Surveyors may administer oaths for certain purposes

Evidence taken by surveyor to be reduced to writing and signed, etc.

Fees.

[Section 31 of C. S. C. c. 77, is as follows :

31. If any person or persons, in any part of this province, interrupts, molests or hinders any land surveyor, while in the discharge of his duty as a surveyor, such person or persons shall be guilty of a misdemeanor, and being thereof lawfully convicted in any court of competent jurisdiction, shall be punished either by fine or imprisonment, or both, in the discretion of such court, such imprisonment being for a period not exceeding two months, and such fine not exceeding twenty dollars, without prejudice to any civil remedy which such surveyor or any other party may have against such offender or offenders, in damages by reason of such offence. See Schedule C to R. S. C. p. 2317.

Penalty for obstructing a land surveyor in the discharge of his duty.

[For punishment for pulling down, defacing, altering or removing landmarks, see *The Criminal Code, 1892, of Canada, 55-56 V. c. 29, Secs. 505, 506.*]

SCHEDULE.

(Section 28 (3))

SURVEYOR'S RETURN.

Township of.....

County of.....

I hereby certify that the following lot lines in the above township were run by me during the year ending December 31st, 18 , under the provisions of section

Line between.			Concession.	Date.
Lot	and Lot			
"	" "		
"	" "		
"	" "		
"	" "		
"	" "		
"	" "		
"	" "		
"	" "		

Dated at , this day of , 18

A. B.,
Ontario Land Surveyor.
60 V. c. 27, Schedule D.

8. MISCELLANEOUS.

CHAPTER 182.

An Act respecting the Profession of Architects.

SHORT TITLE, s. 1.	FALSELY USING TITLE IMPLYING REGISTRATION, s. 24.
ONTARIO ASSOCIATION, ss. 2, 3.	FALSIFYING REGISTER, ss. 25, 26.
COUNCIL, s. 4.	ANNUAL REGISTER, s. 27.
Qualification of Members, s. 5.	WITNESS FEES, s. 28.
Election, ss. 6-10.	ARCHITECT GIVING FALSE CERTIFICATE, PENALTY, s. 29.
Meetings of ; and of Association, ss. 12-15.	RECOVERING FEES AND PENALTIES, s. 30.
Payment of Members. s. 16.	SERVICE OF NOTICES, ETC., s. 31.
Powers of, s. 18.	FUNDS AND ACCOUNTS, s. 32.
OFFICERS, ss. 11, 17.	
STUDENTS, s. 19.	
ADMISSION TO REGISTRATION, ss. 20-23.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Architects' Act.*" Short title. 53 V. c. 41, s. 1.

2. "The Ontario Association of Architects" is hereby continued as a body corporate by the name aforesaid, with perpetual succession and a common seal, and with power to acquire, hold and dispose of personal and real estate, for the purposes of this Act. and to sue and be sued. 53 V. c. 41, s. 3. Corporate powers.

3. The persons who are now members of the Association and all persons who shall be hereafter registered as architects under this Act shall be members thereof, subject to the by-laws of the Association and to the provisions of this Act. 53 V. c. 41, ss. 2, 4. Membership.

4. There shall be a Council of Management of the said Association, to be appointed in the manner provided for in this Act, and hereinafter referred to as "The Council." 53 V. c. 41, s. 5. Council of Management.

Council, how
composed.

5—(1) The Council shall be composed of nine persons, who shall be British subjects, both residing and practising the profession of architecture within this Province for at least ten years.

Quorum.

(2) Any five members of the Council shall form a quorum. 53 V. c. 41, s. 6, and s. 10, part.

Election.

6. The members of the Council shall be elected by ballot, in such manner as may be provided for by the by-laws of the Association, at the annual meeting of the said Association, or at a special meeting called for that purpose; and the members of the Association obtaining the greatest number of votes shall be declared elected. 53 V. c. 41, s. 8.

Qualification.

7. No person shall be eligible for election to the Council, or qualified to fill any vacancy therein, or to vote for any member thereof unless duly qualified under the provisions of this Act and the by-laws of the Association. 53 V. c. 41, s. 9.

Term of office.

8. Except in the case of an election or an appointment to fill a vacancy caused by death or resignation, the members of the Council shall hold office for the term of three years, three retiring each year. 53 V. c. 41, s. 10.

Vacancies,
how filled.

9.—(1) In case of the resignation or death of any member or members of the Council not exceeding four, the other members of the Council shall have power to fill all vacancies so caused, until the time of the holding of the next annual meeting, provided said annual meeting is not to be held within a period of three months of the occurring of such vacancy or vacancies.

(2) In case of the resignation or death of five or more members of the Council, the President or Vice-President of the Association, or in case of their default for a period of ten days, any five members in good standing shall have power to call a special meeting of the Association upon a notice of not less than ten days, for the purpose of filling the vacancies so caused.

(3) In case of an election to fill the vacancies referred to in subsections 1 and 2, the member receiving the greater number of votes shall be considered the member elected to fill the vacancy which will require the longer term to expire, and so on until the vacancies are filled. 53 V. c. 41, s. 11.

Proceedings
where election
disputed.

10. In case of any doubt or dispute as to who has or have been elected a member or members of the Council, or as to the legality of the election of any member or members of the Council, the other duly elected members shall be a committee to hold an enquiry and decide who, if any, is, or are, the legally elected member or members of the Council, and the person, or

persons, if any, whom they decide to have been elected shall be deemed to be the member, or members, legally elected, and if the election is found to have been illegal, the said committee shall have power to order a new election. 53 V. c. 41, s. 12.

11. The Council shall annually elect from amongst its members a President and two Vice-Presidents, and shall appoint a Registrar, Treasurer, Solicitor and such other officers as may be necessary for the working of this Act, who shall hold office during the pleasure of the Council, and who shall, as well as being officers of the Council, hold the like position as officers of the Association. 53 V. c. 41, s. 18.

12. Meetings of the Association and the Council shall be held at such times and places as may be fixed by the by-laws of the Association or Council respectively : and in the absence of any rule or regulation as to the summoning of meetings of the Association, or of the Council, it shall be lawful for the President, or in the event of his absence or death, for the Registrar, to summon the same as to such time and place as to such officer seems fit, by circular letter to be mailed to each member. 53 V. c. 41, s. 13.

13. In the event of the absence of the President from any meeting, either of the Vice-Presidents, or in their absence, some other member to be chosen from among the members present, shall act as President. 53 V. c. 41, s. 14.

14. All questions submitted to the Association, or the Council, shall be decided by a majority of the members present, not being less than five in number in case of the Council, and twenty in case of the Association. 54 V. c. 41, s. 15.

15. At all meetings the President for the time being shall have only a casting vote. 53 V. c. 41, s. 16.

16. There shall be paid to the members of the Council such fees for attendance, and such reasonable travelling expenses as may be fixed by by-law passed by the Association at the annual meeting. 53 V. c. 41, s. 17.

17. The Council shall have power to fix by by-law the salaries or fees to be paid to such officers, and to the Board of Examiners hereinafter referred to. 53 V. c. 41, s. 19.

18. The Council shall have power and authority :—

1. To appoint an examiner, or examiners, for the purpose of ascertaining and reporting upon the qualification of all persons who shall present themselves for admission and enrolment as students at any of the matriculation, preliminary, intermediate or final examinations ;

Admission of students, etc.

2. To make all necessary rules, regulations and by-laws respecting the admission and registration of students, the periods and conditions of study, and the enrolment of architects as members of the Association and all matters relating to the discipline and honor of the profession ;

Fees.

3. To regulate and fix the admission and annual fees payable by students and architects, and to make all rules, regulations and by-laws necessary for the proper carrying out of the provisions of this Act ;

By-laws.

Diplomas of foreign institutions.

4. To enact by-laws as to the terms upon which it will receive the matriculation or other certificates of colleges and other institutions not in the Province of Ontario. 53 V. c. 41, s. 20.

Matriculants in arts not required to pass preliminary examination.

19. Any student who has matriculated in arts in any university in Her Majesty's dominions, or in the Ontario School of Practical Science, shall not be required to pass the preliminary examination. 53 V. c. 41, s. 21.

Registration of certain practitioners.

20. Any person who was practising the profession of architecture within this Province on the 7th day of April, 1890, who through absence, illness, or inadvertence, omitted to have his name registered with the Registrar of the Association may at the discretion of the Council be admitted to enrolment as an architect. 53 V. c. 41, s. 22.

Admission of other persons.

21. Any other person who applies for admission to registration as an architect, shall not be less than twenty-one years of age, and shall have served as a student not less than five years with a principal or principals entitled to register under this Act, or with any other principal or principals approved by the Council and shall have passed such qualifying examinations as may be required under this Act. 53 V. c. 41, s. 23.

Admission of students to practice.

22.—(1) All students desirous of entering the profession of architecture shall be presented by a member of the Council, and shall cause their full names to be entered with the registrar and shall pay such fees and submit to such examinations as shall be necessary in that behalf ; Provided that any person who, before the 7th day of April, 1890, was entered as a student for a shorter term than five years, but not less than three years, with a principal or principals qualified to be registered under this Act, or with any other principal or principals approved by the Council shall, on serving the full term of his indenture and passing the examinations prescribed by the Council, be entitled to register under this Act.

Proviso.

(2) Any person who has graduated from the Ontario School of Practical Science shall be required to serve only three years as a student, one of which three years may be served during the vacations of such school.

(3) Students shall hereafter serve such term as is required to be served by the provisions of this Act, under indenture, to a registered architect, which indenture and any assignment thereof with affidavit of execution thereto attached shall be filed with the Registrar upon payment of such fee as the Council may by regulation direct. 53 V. c. 41, s. 24 (1, 3, 4).

23. It shall be the duty of the Registrar to keep the register in accordance with the provisions of this Act, and the by-laws, orders and regulations of the Council. 53 V. c. 41, s. 34. Registrar to keep correct register.

24.—(1) No person shall be entitled to take or use the name or title of "Registered Architect," either alone or in combination with any other word or words, or any name, title or description, implying that he is registered under this Act, unless he is so registered. Penalty for using title of "Registered Architect" while unregistered.

(2) Any person who, not being registered under this Act, takes or uses any such name, title, or description, as aforesaid, shall be liable, on summary conviction, to a fine not exceeding \$25 for the first offence, and not exceeding \$100 for each subsequent offence. 53 V. c. 41, s. 25.

25. If the Registrar shall wilfully make, or cause to be made, any falsification in any matters relating to the register, he shall, on conviction thereof, be imprisoned for any term not exceeding twelve months. 53 V. c. 41, s. 27. Penalty for registrar falsifying register.

26. Any person who wilfully procures, or attempts to procure registration under this Act by making, or producing, or causing to be produced, or made any false or fraudulent representation, or declaration, either verbally or in writing, that he is entitled to such registration, shall, on conviction thereof, be sentenced to imprisonment for any term not exceeding twelve months. 53 V. c. 41, s. 28. Penalty for procuring false registration.

27.—(1) The Registrar of the Council shall, in every year, cause to be printed, published, and kept for inspection at his office, free of charge, under the direction of the Council, a correct register of the names, in alphabetical order according to the surnames, with the respective residences, in the form set forth in Schedule A to this Act, or to the like effect, of all persons appearing on the general register on the first day of January in every year, and such register shall be called "The Architects' Register." Register of practitioners to be kept.

(2) A copy of the said register for the time being, purporting to be printed and published under the direction of the said Council, shall be evidence in all Courts, and before all Justices of the Peace and others, that the persons therein specified are registered according to the provisions of this Act. Copy to be evidence.

(3) In case the name of any person who claims to have been registered does not appear in such copy, a certified copy under the hand of the Registrar of the Council, of the entry of the name of such person in the register, shall be evidence that such person is registered under the provisions of this Act. 53 V. c. 41, s. 26.

Witness fees
of architects.

28. There shall be paid to every registered architect summoned to attend any court, civil or criminal, for the purpose of giving evidence in his professional capacity, or in consequence of professional services rendered by him as an architect, for each day he so attends, in addition to his travelling expenses (if any), and to be taxed and paid in the manner by law provided with regard to the payment of witnesses attending such court the same fee or allowance as is payable to Ontario land surveyors. 53 V. c. 41, s. 29.

Penalty in
case architect
makes a false
certificate.

29. Every architect who shall wilfully make any false certificate in respect of any work done, or the value or condition of any work or building, besides being liable in damages for any injury thereby suffered shall be subject to a penalty of \$100 to be recovered by action in any court of competent jurisdiction. 60 V. c. 15, Sched. A, (41).

Recovery of
fees and col-
lection of
penalties.

Rev. Stat.
c. 90.

30.—(1) All fees payable under this Act may be recovered as ordinary debts due to the Association; and all penalties under this Act may be recovered and enforced before one or more Justices of the Peace, in the manner authorized by *The Ontario Summary Convictions Act*.

(2) Any sum or sums of money arising from convictions and recovery of penalties as aforesaid, shall be paid immediately upon the recovery thereof by the convicting Magistrate to the Registrar of the Council.

(3) Any person may be prosecutor or complainant under this Act, and the Council may allot such portion of the penalties as they may deem expedient to such prosecutor or complainant. 53 V. c. 41, s. 30.

Service of
notices.

31.—(1) Subject to the other provisions of this Act, all notices and documents required by or for the purposes of this Act to be sent, may be sent by post, and shall be deemed to have been received at the time when the letter containing the same would be delivered in the ordinary course of the mail, and in proving such sending it shall be sufficient to prove that the letter containing the notice or document was prepaid and properly addressed and mailed.

(2) Such notices and documents may be in writing, or in print, or partly in writing and partly in print, and when sent to the Council or other authorities shall be deemed to be properly addressed if addressed to the said Council or authorities.

or to some officer of the Council or authority at the principal place of business of the Council or authority, and when sent to a person registered under this Act, shall be deemed to be properly addressed if addressed to him according to his address registered in the register of the Association. 53 V. c. 41, s. 31.

32.—(1) All moneys arising from fees payable on registration or the annual renewal fees, or from the sale of copies of the register, or otherwise, shall be paid to the Registrar of the Council, and by him paid over to the Treasurer, to be applied in accordance with such regulations as may be made by the Council for defraying the expenses of registration and the other expenses of the execution of this Act, and subject thereto towards the support of museums, libraries, or lectureships, or for other public purposes connected with the profession of architecture, or towards the promotion of learning and education in connection with architecture. Application of funds.

(2) The Council shall have power to invest any sum not expended as above in such securities as shall be approved by the Government of the Dominion of Canada, or of the Province of Ontario, in the name of any three of their number appointed as trustees, and any income derived from such invested sums shall be added to and considered as part of the ordinary income of the association.

(3) The Association may also use surplus funds or invested capital for the rental or purchase of land or premises, or for the building of premises to serve as offices, examination halls, libraries, museums, or for any other public purpose connected with architecture. 53 V. c. 41, s. 32.

33. The Registrar and Treasurer of the Council shall enter in books to be kept for that purpose, a true account of all sums of money by them respectively received and paid under this Act, and such account shall be audited and submitted to the Council at such time, or times, as the Council may require. Accounts of association.
53 V. c. 41, s. 33.

SCHEDULE A.

(Section 27.)

ANNUAL REGISTER.

1st January, 18 .

Date of Registration.	Name.	Title or Distinction (if any)	Residence..
1890. July 1st.	A. B. . . .	Toronto University	Toronto.
1891. Aug. 1st.	C. D. . . .	. . . . .	London.
" "	E. F. . . .	. . . . .	Ottawa.
" "	G. H. . . .	. . . . .	Toronto.
" "	I. J. . . .	. . . . .	Hamilton.

53 V. c. 41, Sched. A

CHAPTER 183.

An Act respecting the Chartered Stenographic Reporters' Association of Ontario.

SHORT TITLE, s. 1.	UNQUALIFIED PERSONS USING TITLE, s. 14.
CHARTERED STENOGRAPHIC REPORTERS' ASSOCIATION, s. 2.	SUSPENSION AND EXPULSION OF MEMBERS, s. 15.
MEMBERS OF, ss. 3, 8, 9.	RECOVERING FEES AND PENALTIES, s. 16.
POWERS OF, ss. 4, 5.	AFFILIATION, s. 17.
COUNCIL AND OFFICERS, ss. 6, 7.	MEMBERS PERSONAL REPRESENTATIVE TO HAVE NO INTEREST IN FUNDS, s. 18.
ANNUAL MEETINGS, s. 10.	
REGISTER, s. 11.	
DIPLOMAS AND CERTIFICATES, s. 12.	
EXAMINATION AND ANNUAL FEES, s. 13.	

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. This Act may be cited as "*The Ontario Stenographic Reporters' Act*." 54 V. c. 30, s. 1.

2. "The Chartered Stenographic Reporters' Association of Ontario," hereinafter called the Association, is hereby continued as a body politic and corporate with perpetual succession and a common seal, and with power to acquire, hold and dispose of personal property and real estate for the purposes of this Act, and to sue and be sued in the manner usual with such corporations; Provided always that the Association shall only have power to acquire and hold such real estate as shall not at any time exceed an annual value of \$5,000. 54 V. c. 30, s. 2 part, s. 3.

Chartered Stenographic Reporters' Association of Ontario continued.

PROVIDO.

3. The persons who are now members of the said Association and all persons who shall cause their names to be registered under the provisions of this Act, shall be members of the said Association, subject to the by-laws of the Association and the provisions of this Act. 54 V. c. 30 s. 2 part.

Membership.

4—(1) The Association is hereby empowered to promote and increase by all lawful ways and means the knowledge, skill and proficiency of its members in all things relating to the business or calling of a stenographer, and to that end to establish classes, lectures and examinations and prescribe such tests of competence, fitness and moral character as may be thought expedient to qualify for admission to membership, and to grant diplomas and certificates of efficiency, and to

Educational powers.

authorize its members to use the distinguishing title "Chartered Stenographic Reporter" or the letters C. S. R. (Chartered Stenographic Reporter of Ontario) as a guarantee of competency.

Examination
of students
and affiliation.

(2) The Association may also prescribe for students of stenography, who may desire to become members of the Association, such examinations and may grant to them such certificates of competency as it sees fit; and may organize the said students into a society in affiliation with itself for study and mutual improvement. 54 V. c. 30, s. 4.

Power to
make by-laws.

5. The Association, in general or special meeting assembled after due notice, may make by-laws for carrying out its objects, and may vary, alter or repeal the same from time to time; no new by-law shall be made, nor shall any by-law be altered or repealed except by a two-thirds vote of the members present at a meeting of the Association, and only after at least two weeks notice of the proposed alteration or repeal shall have been given to each member of the Association. 54 V. c. 30, s. 5.

Council and
officers of the
Association.

6. The affairs, business and concerns of the Association shall be managed by a Council who shall be appointed and elected in the manner hereinafter provided; immediately at the close of the annual meeting at which the vacancies caused by the retirement of members of the Council have been filled the Council shall meet and choose from among themselves a President, a Vice-President, a Secretary, a Treasurer and such other officers as may be provided for by the by-laws. In the event of the President's office becoming vacant the Vice-President shall become President of the Association for the remainder of the term. All other vacancies among the officers or the members of the Council shall be filled by the Council; and the Council shall have power to remove from office any officer for misconduct or other just cause, and to appoint his successor for the remainder of the term. 54 V. c. 30, s. 6.

Filling
vacancies.

Members of
council.

7.—(1) The Council shall be composed of nine persons who shall be British subjects, both residing and practising the profession of stenography within this Province for at least five years.

Quorum.

(2) Any five members of the Council shall form a quorum.

Election by
voting papers.

(3) The members of the Council shall be elected by voting papers in such manner as may be provided for by the by-laws of the Association at the annual meeting of the Association, or at a special meeting called for that purpose, and the members of the Association obtaining the greatest number of votes shall be declared elected.

Only qualified
members
eligible for
Council.

(4) No person shall be eligible for election to the Council or qualified to fill any vacancy therein or to vote for any

member thereof, unless duly qualified under the provisions of this Act and the by-laws of the Association.

(6) All elected members of the Council shall hold office for Term of office. the term of three years. 54 V. c. 30, s. 8.

8. Any person who, for the six months prior to the 4th day of May, 1891 had regularly practised the profession of stenographic reporting, and who through absence, illness or inadvertence, omitted to have his name registered with the Secretary of the Association may, at the discretion of the Council, be admitted to enrolment as a chartered stenographer. 54 V. c. 30, s. 9. Registration of certain practitioners.

9. The Council may, by a vote of two-thirds of all the members thereof, admit to membership in the Association without examination such stenographers as may by reason of their general professional reputation and standing be deemed qualified for membership in the same. 54 V. c. 30, s. 10. Admission by vote of council.

10. The annual meeting of the members of the Association for the election of the Council, and for such other business as may be brought before such meeting, shall be held at such time and place and under such regulations and notices as the by-laws of the Association shall provide; and in default of the election being held at the proper time, the existing officers and Council shall continue to act until their successors shall be duly appointed. 54 V. c. 30, s. 11. Time and place of annual meeting.

11.—(1) The Council shall cause to be kept by the Secretary a book or register, in which shall be entered in alphabetical order the names of all members in good standing; and those members only whose names are inscribed in the book or register aforesaid shall be deemed entitled to the privileges of membership in the Association; and such book or register shall at all times be subject to inspection by any person free of charge. Register of members to be kept.

(2) Such register, or a copy of the same duly certified by the Secretary, shall be *prima facie* evidence in all courts and before all persons that the persons therein specified are members of the Association in good standing, and the absence of the name of any person from such book shall be *prima facie* evidence that such person is not a member of the Association. 54 V. c. 30, s. 12. Register or copy to be prima facie evidence of membership.

12. The Association shall have power to limit the term of all diplomas and certificates granted by it to one year from the date of granting the same, and shall have power to withhold the granting or renewal of the same, together with all the other privileges of membership, from any person who neglects to pay the prescribed fees when they are due and so long as such neglect continues. 54 V. c. 30, s. 13. Limitation of term of diplomas and certificates.

Entrance and annual fees.

13.—(1) The Council may fix an entrance and an annual fee or subscription to be paid by all members to the Association, and may vary the amount from time to time; and no member shall be personally liable for any debt of the Association beyond the amount of his unpaid fees or subscription as aforesaid.

Examination fees.

(2) The Council may also prescribe examination fees to be paid by all applicants for examination. 54 V. c. 30, s. 7.

Penalty for using the title C. S. R. when not registered.

14. No person shall be entitled to take or use the name or title of "Chartered Stenographic Reporter," or the letters "C. S. R." either alone or in combination with any other words, or any name, title or description implying that he is a member of the Association, unless he is a member in good standing and registered as such; any person using the said name or title or the said letters contrary to the provisions of this section shall be liable on summary conviction to a fine not exceeding \$25 for the first offence and not exceeding \$100 for each subsequent offence. 54 V. c. 30, s. 14.

Suspension and expulsion of members.

15. The Association may by by-law provide for the suspension or expulsion on complaint and after due enquiry, of any member for misconduct or violation of the rules or by-laws of the Association. 54 V. c. 30, s. 15.

Recovery of fees and penalties due the Association. Rev. Stat. c. 90.

16.—(1) All fees payable under this Act may be recovered as ordinary debts due to the Association, and all penalties, under this Act may be recovered and enforced before one or more justices of the peace in the manner prescribed by *The Ontario Summary Convictions Act*.

Penalties when recovered to be paid to the treasurer.

(2) Any sum or sums of money received from convictions and recovery of penalties as aforesaid shall be paid immediately on the recovery thereof by the convicting magistrate to the Treasurer of the Association.

Who may prosecute.

(3) Any person may be prosecutor or complainant under this Act, and the council may allot such portion of the penalties as they deem expedient to such prosecutor or complainant. 54 V. c. 30, s. 16.

Power to affiliate with similar Associations.

17. The Association shall have power to affiliate with any other Association of Stenographers in the Dominion of Canada, Great Britain or the United States of America, or elsewhere, for the purpose of mutual benefit to the members of the profession. 54 V. c. 30, s. 17.

Ex-members to have no claims against the funds.

18. If any member during his lifetime ceases to be a member of the Association he shall not, nor shall his representatives, have any interest in or claim against the funds or property of the Association. 54 V. c. 30, s. 18.

CHAPTER 184.

An Act respecting Veterinary Surgeons.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

1. The present Veterinary College, established by the former Agriculture and Arts Association, is hereby continued for the instruction and examination of pupils in anatomy, physiology, materia medica, therapeutics, chemistry, and as to the breeding of domesticated animals; and may exercise such powers as were delegated to the said College by the said Agriculture and Arts Association. 58 V. c. 30, s. 1. Present Veterinary College continued.
2. Veterinary practitioners holding the diplomas of the Agriculture and Arts Association shall be entitled to professional fees in attending any Court of law as witnesses in such cases as relate to the profession. 58 V. c. 30, s. 3, part. Witness fees of veterinary practitioners.
3. No person who does not possess a diploma or proper certificate from some duly authorized veterinary college, situate within or without this Province, shall append to his name the term veterinary surgeon, or any abbreviation thereof, and any person who wilfully and falsely pretends to be, or who wilfully and falsely takes or uses any name, title, addition, abbreviation or description implying or calculated to lead people to infer that he is, or is recognized by law as a veterinary surgeon, within the meaning of this Act, or that he possesses a diploma or proper certificate from some duly authorized veterinary college within or without this Province, shall, upon summary conviction before any Justice of the Peace, pay a penalty not exceeding \$100, and not less than \$25. 58 V. c. 30, s. 3, part, s. 4. Penalty on wrongfully assuming title of veterinary surgeon.
4. All prosecutions under this Act may be brought and heard before any Justice of the Peace having jurisdiction in the locality where the offence is alleged to have been committed, and such Justice shall have power to award payment of costs in addition to the penalty; and, in case the penalty and costs awarded by him are not upon conviction forthwith paid, he may commit the offender to the common goal, there to be imprisoned for any term not exceeding three months, unless the penalty and costs are sooner paid. 58 V. c. 30, s. 5. Prosecution.

Application of
penalties.

5. All penalties recovered under this Act shall be paid to the convicting Justice, and be paid by him to the Treasurer of the Ontario Veterinary Association, and shall thereupon form part of the funds of the said Association, and shall be accounted for as such. 58 V. c. 30, s. 6.

Security to be
given on
appeals.

6. Any person convicted under this Act who gives notice of appeal against the decision of the convicting Justice shall, before being released from custody, give to the said Justice satisfactory security for the amount of the penalty and costs of conviction and of the appeal. 58 V. c. 30, s. 7.

Any one may
prosecute
within one
year.

7. Any person may be prosecutor or complainant under this Act, and every prosecution thereunder shall be commenced within one year from the date of the alleged offence. 58 V. c. 30, s. 8

CHAPTER 185.

An Act respecting Stationary Engineers.

HER MAJESTY, by and with the advice and consent of the Preamble.
Legislative Assembly of the Province of Ontario, enacts
as follows :—

1. "The Ontario Association of Stationary Engineers" Ontario Asso-
is hereby continued as a body corporate by the name afore- ciation of
said, with perpetual succession and a common seal, and with Stationary
power to acquire, hold and dispose of personal and real estate, Engineers
for the purposes of this Act, and to sue and be sued, in the continued.
manner usual with corporations. 54 V., c. 31, ss. 1, 2.

2. The persons who are now members of the Association Membership.
and all persons who shall be registered under the provisions
of this Act shall be members of the said Association. 54 V.,
c. 31, s. 3.

3. (1) There shall be a Board of Management of the said Board of
Association, to be composed of twelve persons to be elected in Management.
the manner provided for in this Act. 54 V., c. 31, s. 4 and s. 5,
part.

(2) Any five members of the Board shall form a quorum. Quorum.
54 V. c. 31, s. 5 (3).

4. The members of the Board shall hold office for the term Term of office
of three years and each year there shall be an election of four of members of
members. Any retiring member shall be eligible for re-elec- Board.
tion. 54 V., c. 31, s. 5 (4) part.

5. The members of the Board shall be elected by ballot at Election of
the annual meeting of said Association, or at a special meeting Board.
called for that purpose, in such manner as may be provided
for by the by-laws of the Association, and the members of the
Association obtaining the greatest number of votes shall be
declared elected. 54 V., c. 31, s. 6.

6. No person shall be eligible for election to the Board or Qualifications
qualified to fill any vacancy thereon, or to vote for any mem- of members of
ber thereof unless duly qualified under the provisions of this Board.
Act and the by-laws of the Association. 54 V., c. 31, s. 7.

7.—(1) In case of the resignation or death of any member or Vacancies
members of the Board not exceeding four, the other members how filled.

Proviso.

of the Board shall have power to fill all vacancies so caused, until the time of the holding of the next annual meeting; Provided said annual meeting is not to be held within a period of three months of the occurring of such vacancy or vacancies.

(2) In case of the resignation or death of five or more members of the Board, the President or Vice-President of the Association, or in case of their default for a period of ten days any five members in good standing shall have power to call a special meeting of the Association upon a notice of not less than ten days, for the purpose of filling the vacancies so caused.

(3) In case of an election to fill the vacancies referred to in subsections 1 and 2, the member receiving the greater number of votes shall be considered the member elected to fill the vacancy which shall require the longer time to expire and so on until the vacancies are filled. 54 V., c. 31, s. 8.

Proceedings
where election
disputed.

8. In case of any doubt or dispute as to who has or have been elected a member or members of the Board, or as to the legality of the election of any member or members of the Board, the other duly elected members shall be a committee to hold an enquiry and decide who, if any, is or are the legally elected member or members of the Board, and the person or persons, if any, whom they decide to have been elected, shall be deemed to be the member or members legally elected, and if the election is found to have been illegal, the said committee shall have power to order a new election. 54 V., c. 31, s. 9,

Election of
officers.

9. The Board shall annually elect from among its members a President and Vice-President, and shall appoint a Registrar, Treasurer, Solicitor, and such other officers as may be necessary for the working of this Act, who shall hold office during the pleasure of the Board, and who shall, as well as being officers of the Board, hold the like position as officers of the Association. 54 V., c. 31, s. 15.

Power to
regulate
meetings of
Board and
Association.

10. Meetings of the Association and of the Board shall be held at such times and places as may be fixed by the by-laws of the Association or Board respectively; and in the absence of any rule or regulation as to the summoning of meetings of the Association or of the Board, it shall be lawful for the President, or in the event of his absence or death, for the Registrar, to summon the same at such time and place as to such officer seems fit, by circular letter to each member. 54 V., c. 31, s. 10.

Who to
preside at
meeting.

11. In the event of the absence of the President from any meeting, the Vice-President, or in his absence, some other member to be chosen from among the members present, shall act as President. 54 V., c. 31, s. 11.

12. All questions submitted to the Association, or the Board, shall be decided by a majority of the members present, not being less than five in number in case of the Board, and twenty in case of the Association. 54 V., c. 31, s. 12.

Majority to
decide
questions.

13. At all meetings the President for the time being shall have only a casting vote. 54 V., c. 31, s. 13.

Casting vote

14. There shall be paid to the members of the Board such fees for attendance, and such reasonable travelling expenses as may be fixed by by-laws passed by the Association at the annual meeting. 54 V., c. 31, s. 14.

Payment of
expenses of
Board.

15. The Board shall have power to fix by by-law the salaries or fees to be paid to such officers, and to the Board of examiners hereinafter provided for. 54 V., c. 31, s. 16.

Salaries.

16. The said Board may make rules and regulations for their own conduct and for the uniform inspection of steam plant, for the conduct of examinations, for fixing all fees to be charged and for such other purposes as are necessary under this Act, but nothing herein contained shall be deemed to give the Association any powers of compulsory inspection. 54 V., c. 31, s. 17.

Power to
make rules
and regula-
tions.

17. The Board or a committee thereof shall examine all persons applying under this Act, and shall have power to issue certificates, and such certificates shall in plain terms name the particular steam plant the holder is qualified to operate. 54 V., c. 31, s. 18.

Certificates.

18.—(1) All persons shall on application for examination pay such fee for such examination, including a certificate as may be prescribed.

Examination
fees.

(2) No certificate or renewal thereof shall be granted to any person addicted to the excessive use of intoxicating liquors, and such certificate may at any time be revoked when the holder thereof has been shown to have been guilty of gross carelessness, or of incompetence or intemperance. 54 V., c. 31, s. 19.

Withholding
and revoking
certificate.

19. The expression "steam plant," wherever the same occurs in this Act, shall include boilers and steam engines and every part thereof or thing connected therewith, and all other apparatus and things attached to or connected therewith or used with reference to any such engines or under the care of the engineer. 54 V., c. 31, s. 20.

What "steam
plant" in-
cludes.

CHAPTER 186.

An Act respecting the Culling and Measurement of
Saw-logs cut upon Crown Lands.

SHORT TITLE, s. 1.

INTERPRETATION, s. 2.

BOARD OF EXAMINERS, ss. 3-6.

EXAMINATIONS, s. 7.

LICENSES, s. 8.

OATH OF CULLERS, s. 9.

UNLICENSED PERSONS NOT TO ACT,
s. 10.

DUTIES OF CULLERS, ss. 11, 12.

BOOKS AND RECORDS, s. 13.

RETURNS, s. 14.

CANCELLATION OF LICENSE FOR MIS-
CONDUCT, ss. 15, 16.ACT NOT TO AFFECT REGULATIONS
UNDER CROWN TIMBER ACT.
s. 17.

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario enacts
as follows:—

Short-title.

1. This Act may be cited as "*The Ontario Cullers' Act.*"
53 V. c. 7, s. 1.

Interpreta-
tion.

2. In the construction of this Act:—

"Saw-logs."

1. The expression "saw-logs" includes all logs of pine of
whatever length, whether round or flatted; 53 V. c. 7, s. 2.

"Culler."

2. The expression "culler" includes all persons employed
or engaged in measuring saw-logs cut on Crown Lands. 53 V.
c. 7, s. 3.

Examination
of applicants
for licenses to
cull and mea-
sure saw-logs.

3. The Lieutenant-Governor in Council may from time to
time appoint a Board or Boards of Examiners, each consisting
of three skilled persons, any two of whom shall form a quorum,
whose duty it shall be to examine, test and report upon the
ability and knowledge of all applicants desiring to be licensed to
cull and measure saw-logs cut on Crown Lands; and to perform
such other duties as may be assigned to them by the Lieutenant-
Governor in Council. 53 V. c. 7, s. 5.

Oath of
examiner.

4.—(1) Each Examiner, before entering on his duties, shall
take and subscribe before a Justice of the Peace an oath to the
following effect:

That I _____, will act as Examiner of Cullers
to the best of my ability and knowledge, and will conduct the examina-
tions without fear, favour or affection, and recommend for licenses only
those persons who have satisfactorily proved their fitness to discharge the
duties of culling and measuring saw-logs.

(2) The affidavit shall be transmitted to the Commissioner of
Crown Lands to be filed. 53 V. c. 7, s. 6.

5. The Lieutenant-Governor in Council may authorize the payment to each member of such Board of Examiners, as remuneration for his services, a sum not exceeding \$4 per day, while actually employed as such Examiner. 53 V. c. 7, s. 7.

Fees of
examiners.

6. Every Board of Examiners shall sit at such places and on such dates as may be fixed by the Commissioner of Crown Lands, and shall examine all candidates who may present themselves before them, and at the close of the examination, or as soon after as may be, shall transmit to the Commissioner of Crown Lands the names of such of the candidates as they believe are trustworthy and of good character, and who have passed a satisfactory examination, and whom they recommend as having the requisite skill and knowledge to warrant their being licensed as saw-log cullers. 53 V. c. 7, s. 8.

Sittings of
boards of ex-
aminers.

7. Every person intending to present himself for examination as a culler shall on or before the first day of May in any year give notice in writing to the Commissioner of Crown Lands of such intention, and of his post office address, and shall pay into the Department of Crown Lands the sum of \$4 as an examination fee. 53 V. c. 7, s. 10.

Candidates to
give notice
and pay fees.

8. The Commissioner of Crown Lands may issue a license to any person reported by a Board of Examiners as competent to perform the duties of a culler, such license to be in the form following, and to remain in force until cancelled:—

Licenses to
cullers.

To _____ of the (*County or District*) of _____

By virtue of authority vested in me by the Revised Statute of Ontario Chapter _____ entitled "An Act respecting the culling and measurement of saw-logs cut upon Crown Lands." I hereby authorize you to act as culler of saw-logs which may be cut on Crown Lands within the Province of Ontario, such authority to continue in force during pleasure.

Given under my hand this _____ day of _____ in the year of our Lord A.D. 18 _____

(Sgd.)

Commissioner of Crown Lands.

53 V. c. 7, s. 11.

9.— I, _____, do solemnly swear that I will, while acting as licensed culler, without fear, favour or affection, and to the best of my judgment and skill, correctly measure all saw-logs cut on Crown Lands which I may be employed to measure, and make true return of the same to the Department of Crown Lands, or its agents.

Oath of appli-
cant for
license.

(2) The said oath of office shall be filed in the Department of Crown Lands. 53 V. c. 7, s. 12.

Unlicensed
persons not to
make meas-
urements.

10.—(1) No person other than a licensed culler shall make measurement of saw-logs cut upon Crown Lands for the purposes of a return to the Crown Lands Department; Provided that where it is made to appear to the satisfaction of the Commissioner of Crown Lands that the services of a licensed culler are not procurable, the Commissioner may issue a special permit to any trustworthy and skilled person to act as culler, upon his taking the prescribed oath, but such permit shall not extend beyond the 1st day of July next following its date. 53 V. c. 7, s. 13.

Proviso.

(2) This section shall not apply to the operations of any lumber company person or firm whose gross annual output is under 250,000 feet board measure. 53 V. c. 7, s. 21.

Duties of
cullers.

11. It shall be the duty of every culler to measure fairly and correctly to the best of his skill, knowledge and ability, all saw-logs which he may be employed to measure, making only such deductions as are necessary to allow for the rots or other defects, and to enter in his book of record, for the purpose of return to the Crown Lands Department, what he believes to be the proper contents of the logs, noting also the number of saw-logs rejected as worthless, commonly called culls. 53 V. c. 7, s. 14.

Culled logs
to be marked.

12. Upon all logs culled or rejected as wholly worthless he may write the word "cull" in plain letters, but he shall not mark "cull" upon any log which is intended to be hauled to any river, lake or stream for the purpose of being driven to a mill. 53 V. c. 7, s. 15.

Inspection of
books and
records of
cullers.

13. All licensed cullers shall submit their books and records of measurement for the inspection of any Crown timber agent, Crown timber ranger, or other officer of the Crown Lands Department when called upon so to do, and shall give all information asked for if in their power, and furnish any statement or copies of statements which the Department or its agents may from time to time require. 53 V. c. 7, s. 16.

Returns to be
made by
cullers.

14. At the end of the season it shall be the duty of every culler to make a sworn return upon forms supplied by the Crown Lands Department or its agents, which return shall show the number of pieces measured and accepted by such culler, and their respective lengths and diameters, and also the number of pieces rejected as worthless. 53 V. c. 7, s. 17.

Cancellation of
license.

15. Should any culler neglect or refuse to carry out and obey the provisions of this Act, or any regulations now in force or to be made under it, the Commissioner of Crown Lands may cancel his license and such culler shall not thereafter be eligible to cull or measure saw-logs cut upon Crown Lands, and if he does so he shall be liable to a penalty of not less than \$10 or more than \$50 to be recovered with costs on

summary conviction before any Stipendiary Magistrate, Police Magistrate or two Justices of the Peace, and on default of payment or distress, he shall be imprisoned in the common gaol of the county or district for a period of not less than one month nor more than three months, in the discretion of the court. 53 V. c. 7, s. 18.

16. If any culler wilfully undermeasures or mismeasures or improperly culls and rejects any saw-logs, or makes a false return for the purpose of deceiving or defrauding, such culler's license shall be revoked, and he shall not thereafter be permitted to act as culler under this Act; and in addition he shall be subject to a penalty of not less than \$20 or more than \$100, to be recovered with costs on summary conviction before any Stipendiary Magistrate, Police Magistrate, or two Justices of the Peace, and in default of payment he shall be imprisoned in the common gaol of the county or district for a period of not less than one month nor more than three months, in the discretion of the court. 53 V. c. 7, s. 19.

Penalty for making improper measurements or false returns.

17. This Act shall not be taken or construed as abrogating any regulations made under *The Act respecting Timber on Public Lands*, except in so far as any such regulations may be inconsistent herewith. 53 V. c. 7, s. 20.

Act not to affect regulations under Rev. Stat. c. 32.

[53 V. c. 7, was brought into force on the 1st day of January, 1891 by a proclamation of the Lieutenant-Governor in Council.]

CHAPTER 187.

An Act respecting Innkeepers.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Interpre-
tation.

1. In the construction of this Act :—

“Inn.”

1. “Inn” shall include an hotel, inn, tavern, public house or other place of refreshment, the keeper of which is now by law responsible for the goods and property of his guests; and

“Innkeeper.”

2. “Innkeeper” shall mean the keeper of any such place R. S. O. 1887, c. 154, s. 1.

Lien on bag-
gage, etc., for
accommoda-
tion, etc., fur-
nished, and
power to sell.

2.—(1) Every innkeeper, boarding-house keeper and lodging-house keeper shall have a lien on the baggage and property of his guest, boarder or lodger, for the value or price of any food or accommodation furnished to such guest, boarder or lodger, and, in addition to all other remedies provided by law, shall have the right, in case the same remains unpaid for three months, to sell by public auction the baggage and property of such guest, boarder or lodger, on giving one week's notice by advertisement in a newspaper published in the municipality in which the inn, boarding-house, or lodging-house is situate, or in case there is no newspaper published in the municipality, in a newspaper published nearest to such inn, boarding-house, or lodging-house, of the intended sale, stating the name of the guest, boarder or lodger, the amount of his indebtedness, the time and place of sale, and the name of the auctioneer, and giving a description of the baggage or other property to be sold; and after the sale the innkeeper, boarding-house keeper, or lodging-house keeper may apply the proceeds of the sale in payment of the amount due to him, and the costs of such advertising and sale, and shall pay over the surplus (if any) to the person entitled thereto, on application being made by him therefor.

Lien on horses,
etc., and pow-
er to sell.

(2) Where an innkeeper, boarding-house keeper, lodging-house keeper or livery stable keeper, has by law a lien upon a horse or other animal for the price or value of any food or accommodation supplied to such animal, or for care or labour bestowed thereon, he shall in addition to all other remedies provided by law, have the right, in case any part of such price or value remains unpaid for the space of two weeks, to sell by public auction such horse or other animal on giving two weeks' notice by advertisement in a newspaper published in the muni-

cipality in which the inn, boarding-house, lodging-house, or livery stable is situate, or in case there is no newspaper published in the municipality, in a newspaper published nearest to such inn, boarding-house, lodging-house, or livery stable, of the intended sale, stating (if known) the name of the person or persons who brought such horse or other animal to the inn, boarding-house, lodging-house, or livery stable, the amount of the indebtedness, and the name of the auctioneer, and giving a description of the horse or other animal; and after the sale, the innkeeper, boarding-house keeper, lodging-house keeper or livery stable keeper may apply the proceeds thereof in payment of the amount due to him in respect of food or accommodation supplied, or care or labour bestowed as aforesaid, and the costs of such advertisement and sale, and shall pay over the surplus, if any, to the person entitled thereto on application being made by him therefor. R. S. O. 1887 c. 154, s. 2.

3. —(1) No innkeeper shall be liable to make good to any guest of such innkeeper, any loss of or injury to goods or property brought to his inn (not being a horse or other live animal, or any gear appertaining thereto, or any carriage), to a greater amount than the sum of \$40 except in the following cases, that is to say :

Innkeeper not liable for loss of goods and property of guest beyond \$40, unless lost,

(a) Where such goods or property have been stolen, lost, or injured through the wilful act, default, or neglect of such inn-keeper, or any servant in his employ ;

by his wilful default,

(b) Where such goods or property have been deposited expressly for safe custody with such innkeeper.

or unless deposited with him for safe keeping.

(2) In case of such deposit, it shall be lawful for such innkeeper, if he thinks fit, to require as a condition of his liability that such goods or property shall be deposited in a box or other receptacle, fastened and sealed by the person depositing the same. R. S. O. 1887, c. 154, s. 3.

4. If an innkeeper refuses to receive for safe custody, as before mentioned, any goods or property of his guest, or if such guest, through any default of such innkeeper, is unable to deposit such goods or property as aforesaid, the innkeeper shall not be entitled to the benefit of this Act in respect of such goods or property. R. S. O. 1887, c. 154, s. 4.

Liability for refusal to take charge of goods.

5. Every innkeeper shall cause to be kept conspicuously posted in the office, and public rooms, and in every bedroom in his inn, a copy of section 3 of this Act, printed in plain type; and he shall be entitled to the benefit of the said section in respect of such goods or property only as are brought to his inn while such copy is so posted. R. S. O. 1887, c. 154, s. 5.

Copy of section 3 to be conspicuously exhibited

CHAPTER 188.

An Act respecting Pawnbrokers.

INTERPRETATION, s. 1.	PROCEEDINGS ON NOTICE NOT TO DELIVER, s. 23.
LICENSE OF PAWNBROKER, ss. 2-6.	SALE OF UNREDEEMED GOODS, ss. 24-32.
SIGN TO BE EXHIBITED, ss. 7, 8.	RESTRICTIONS ON PAWNBROKER, ss. 32, 33.
RATES TO BE EXHIBITED, s. 9.	PROCEEDINGS WHEN GOODS LOST OR IMPAIRED IN VALUE, ss. 34-37.
BOOKS TO BE KEPT, ss. 10, 11.	FEES OF JUSTICES, s. 38.
MEMORANDUM TO PAWNOR, ss. 12-15.	APPLICATION OF PENALTIES, s. 39.
PAWNING GOODS OF OTHERS, OR GOODS PARTLY MANUFACTURED, ss. 16-19.	LIMITATION OF PROSECUTIONS, s. 40.
CONCEALMENT OF GOODS, s. 20.	WHO MAY TRY ; OR PROSECUTE, s. 41.
REFUSAL TO DELIVER GOODS ON REDEMPTION, s. 21.	LIABILITY OF EXECUTORS OF PAWNBROKER, s. 42.
HOLDER OF MEMORANDUM ENTITLED TO GOODS, s. 22.	APPEALS, ss. 43, 44.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Pawnbroker, defined.

1. Every person who takes or receives, by way of pawn pledge or exchange, any goods for the repayment of money lent thereon, shall be deemed a pawnbroker within the meaning of this Act. R. S. O. 1887, c. 155, s. 1.

Pawnbrokers to be licensed.

2. No person shall exercise the trade of a pawnbroker within any municipality in this Province unless he shall have obtained a license therefor under the hand of the treasurer of the municipality in which he carries on or purposes to carry on such trade, nor unless he shall obtain a renewal of the same annually, but no license shall be issued or renewed, unless the same shall have been first authorized by by-law of the council of said municipality. R. S. O. 1887, c. 155, s. 2.

Penalty for neglect to take out license.

3. Every person exercising such trade without having obtained a license or renewal thereof, as aforesaid, shall forfeit \$50 for every pledge he takes, to be recovered with costs in the same manner as the penalty with costs imposed in section 8 of this Act may be recovered. R. S. O. 1887, c. 155, s. 3.

Fee for license.

4. The sum of \$60 shall be paid for every license or renewal thereof to the treasurer, for the use of the municipality. R. S. O. 1887, c. 155, s. 4.

5. No person shall, by virtue of one license, keep more than one house or shop, or place for taking in goods to pawn. License to cover only one shop. R. S. O. 1887, c. 155, s. 5.

6. Any number of persons carrying on trade as pawnbrokers Partners. in partnership in the same house, shop or place need only take out a license for one house. R. S. O. 1887, c. 155, s. 6.

7. Every pawnbroker shall have a sign, with his name and the word "Pawnbroker" in large legible characters thereon, To exhibit a sign. placed over the door outside of the shop, or other place used by him for carrying on business. R. S. O. 1887, c. 155, s. 7.

8.—(1) In case a pawnbroker neglects to have such sign so placed, he shall forfeit \$40 for every shop or place made use of for one week without having such sign so put up, to be recovered with costs, before any Police Magistrate or two Justices of the Peace, and if such sum is not forthwith paid upon conviction, the same may, by warrant under the hand and seal of such Police Magistrate or two Justices of the Peace, be levied by distress and sale of the offender's goods. Penalty for neglect to exhibit sign. R. S. O. 1887, c. 155, s. 8, part.

(2) If there is not a sufficient distress, or payment is not forthwith made, the offender shall be committed to the county or district gaol, for a term not exceeding three months nor less than fourteen days, unless the penalty and costs are sooner paid. Committal in default of distress. R. S. O. 1887, c. 155, s. 9.

9. Every pawnbroker shall cause to be painted or printed in large legible characters the rate of profit by this Act or by the Statutes of Canada allowed to be taken, and also the various prices of the notes or memorandums to be given according to the rates hereinafter mentioned, and a statement of such as are to be given *gratis*, and of the expense of obtaining a second note or memorandum where the former one has been lost, mislaid, destroyed or fraudulently obtained, and shall place the same in a conspicuous part of the shop or place where the business is carried on, so as to be visible to and legible by persons pledging goods. Rates to be exhibited. See R. S. C. c. 128. R. S. O. 1887, c. 155, s. 10.

10. Every pawnbroker who takes any goods by way of pawn or pledge, whereon a sum above \$1 is lent, shall, before he advances or lends the money thereon, enter in a fair and regular manner in a book to be kept by him for that purpose, a description of the goods received in pawn, pledge or exchange, and the sum lent thereon, with the day and year and name of the person by whom pawned, and the name of the street and number of the house, if numbered, where such person abides, and whether he is a lodger in or the keeper of such house, by using the letter L if a lodger, and the letter H if a housekeeper, and also the name and place of abode of the owner Entries to be made by pawnbrokers.

according to the information of the person pawning the goods, into all which circumstances the pawnbroker shall inquire of the party before any money is advanced; and if the sum lent does not exceed \$1, a similar entry shall be made within four hours after the goods have been pawned. R. S. O. 1887, c. 155, s. 11.

If above \$2
lent.

11. Every pledge upon which there is lent above \$2 shall be entered in a book to be kept for that purpose, and to be kept separate from all other pledges, and every such entry shall be numbered in the book progressively as such goods are pawned in the following manner, viz.: the first pledge that is received in pawn as No. 1, the second as No. 2, and so on until the end of the month, and so on in every succeeding month throughout the year, and upon every note respecting such pledge shall be written the number of entry of the pledge so entered in the book aforesaid. R. S. O. 1887, c. 155, s. 12.

Note giving
description of
goods to be
given to the
pawnor.

12. At the time of taking any pawn, a note or memorandum, written or printed, shall be given to the person pawning, pledging or exchanging the same, containing a description of the goods pawned, pledged or exchanged, and also of the money advanced thereon, with the day of the month and year, and the names and places of abode, and numbers of the houses of the parties, and whether lodgers or housekeepers, by using the letters aforesaid, and upon such note or memorandum, or on the back thereof, shall be written or printed the name and place of abode of the pawnbroker, which note or memorandum the party pawning the goods is required to take, and unless he takes the same, the pawnbroker shall not receive and retain the pledge. R. S. O. 1887, c. 155, s. 13.

Fees therefor.

13.—(1) When the sum lent is under \$1, the note aforesaid shall be given *gratis*.

(2) If the sum lent is \$1 and under \$2, the pawnbroker may take one cent.

(3) If \$2 and under \$5, he may take two cents.

(4) If \$4 and under \$20, he may take three cents.

(5) If \$20 and upwards, he may take seven cents. R. S. O. 1887, c. 155, s. 14. 60 V. c. 15, Sched. A (35) part.

The note to be
afterwards
produced.

14. The note shall be produced to the pawnbroker before he is obliged to re-deliver the goods, except as hereinafter provided. R. S. O. 1887, c. 155, s. 15.

A duplicate to
be affixed to
the goods.

15. A duplicate of the note or memorandum shall be affixed to the goods pledged, and in all cases where goods pawned are redeemed, the pawnbroker shall write or endorse, or cause to be written or endorsed on every duplicate, the

profit taken by him for the pledge, and shall keep the duplicate in his custody for one year next following. R. S. O. 1887, c. 155, s. 16.

16. If any person knowingly and designedly pawns pledges or exchanges, or unlawfully disposes of the goods of any other person, not being employed or authorized by the owner so to do, any Justice of the Peace resident nearest to the place where the offence has been committed may grant his warrant to apprehend the offender; and if he is thereof convicted by the oath of one witness, or by confession, before a Justice of the Peace, he shall forfeit not more than \$20 nor less than \$4, and also the value of the goods pawned, and if not forthwith paid, the convicting Justice shall commit him to the common gaol of the district or county where the offence was committed, there to remain and be kept at hard labour for not more than three months, unless the forfeiture is sooner paid. R. S. O. 1887, c. 155, s. 17.

Penalty for
pawning goods
of others.

17. The said forfeitures when recovered shall be applied towards making satisfaction thereout to the party injured, and defraying the costs of the prosecution, as may be adjudged reasonable by the convicting justice. R. S. O. 1887, c. 155, s. 18.

Forfeitures,
how applied.

18. If any person knowingly buys or takes in pawn or exchange from any journeyman mechanic, any goods of any manufacture or of any part or branch of any manufacture, either mixed or separate, or any materials plainly intended for manufacturing any goods after such goods or materials have been put into a state for any process or operation to be thereupon or therewith performed, and before such goods or materials have been finished for the purpose of wear or consumption, or any goods, materials, linen or apparel which have been entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up, and is convicted thereof upon confession, or on the oath of one witness, before a Justice of the district or county where the offence was committed, he shall forfeit the sum lent thereon, and forthwith restore the said goods or materials to the lawful owner. R. S. O. 1887, c. 155, s. 19.

Consequences
of taking goods
in pawn from
journeymen.

19. If the owner of goods of any manufacture, or part or branch of any manufacture, either mixed or separate, or of any materials plainly intended for manufacturing any goods after such goods or materials have been put into a state for any process or operation to be thereupon or therewith performed and before such goods or materials have been finished for the purpose of wear or consumption, or of any linen or apparel which has been entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up as aforesaid, or of any other goods whatsoever, which have been unlawfully pawned or exchanged, makes out either on his oath or by the oath or solemn affirmation of one witness, before a Justice of

Proceedings
by owners of
goods illegally
pawned or
exchanged.

Search
warrant.

the district or county where such offence has been committed, that there is just cause to believe or to suspect that any person has taken to pawn or exchange any such goods without the owner's knowledge, and makes appear probable grounds for such suspicion, the Justice may issue his warrant, for searching within the hours of business, the books, house, warehouse or any other place of the person so charged as suspected of having received the same without the privity of the owner; and if the occupier of such place, upon request made to him by any peace officer authorized to search, refuses to exhibit his pledge books, or to open such place as required to permit search to be made, the peace officer may break open the house, warehouse or other place on the said premises within the hours of business, and search as he may think fit for the goods suspected to be there, taking care to do no wilful damage, and no person shall oppose the same. R. S. O. 1887, c. 155, s. 20.

Where goods
found concealed.

20. If after such refusal and upon forced search, any goods so pawned or exchanged as aforesaid are found, and the property of the owner is made out to the satisfaction of the Justice, by the oath or solemn affirmation of one witness, or by the confession of the person charged, the Justice shall cause the goods to be forthwith restored to the owner, and the occupier of the place where such goods are found shall be fined not less than \$8 nor more than \$20 to be recovered as other fines before mentioned. R. S. O. 1887, c. 155, s. 21.

If pawnor
offers to
redeem
within a year,
and pawn-
broker refuses
to restore
goods.

21. In case, within one year after any goods have been pawned or pledged for securing money lent, the pawnor, or other person on his behalf, tenders to the person who lent the money the note or memorandum required to be given by this Act, and also the principal money borrowed, and the profit according to the lawful rates, and the person who took the goods in pawn neglects or refuses, without reasonable cause, to deliver back the goods so pawned, the pawnor may make oath thereof before a Justice of the district or county where the offence has been committed, and the Justice shall cause such person to come before him, and shall examine on oath the parties themselves, and such other credible persons as appear before him touching the premises, and if tender of the note or memorandum, with the principal sum lent, and lawful profit thereon, is proved on oath to have been made within the time aforesaid, then on payment by the borrower of such principal money and the lawful profit due thereon to the lender, and in case the lender refuses to accept thereof on tender before the Justice, the Justice shall thereupon, by order under his hand, direct the goods so pawned forthwith to be delivered to the pawnor, and if the lender neglects or refuses to deliver up or make satisfaction for the goods as the Justice orders, the Justice shall commit him to the common gaol of the district or county where the offence was committed, until he delivers up the goods according

to the order, or makes satisfaction for the value thereof to the party entitled to the same. R. S. O. 1887, c. 155, s. 22.

[*As to lawful rates see R. S. C. Chap. 128, secs. 2, 3.*]

22. The person who produces the note or memorandum aforesaid, and requires a delivery of the goods mentioned therein, shall be deemed the owner, so far as concerns the person who has the goods in pledge, and the pawnbroker, on receiving the principal and profit aforesaid, shall deliver the goods to the person producing the note or memorandum, and he shall be indemnified, unless he has had notice in writing from the real owner not to deliver the goods to the person producing the note or memorandum. R. S. O. 1887, c. 155, s. 23.

Holder of note to be considered owner.

23. In case a pawnbroker has had such previous notice, or in case the note or memorandum has been lost, mislaid, destroyed, or fraudulently obtained from the owner, and the goods mentioned therein are unredeemed:

Proceedings if pawnbroker notified not to deliver.

1. The pawnbroker with whom the goods have been pledged shall, at the request of the person who represents himself as the owner thereof, deliver to such person a copy of the note or memorandum, with the form of an affidavit of the particular circumstances attending the case written thereon, as the same are stated to him by the party applying for the goods;

2. The person receiving the copy and form of affidavit shall thereupon prove his property in or right to the goods to the satisfaction of some Justice of the Peace, and shall also make oath to the affidavit, before such Justice, of the truth of the particular circumstances attending the case therein mentioned;

3. The pawnbroker shall then suffer the person proving such property to redeem the goods on leaving the copy of the note or memorandum, and the affidavit, with him, the pawnbroker;

4. In case the money lent does not exceed \$1 the pawnbroker may receive for the copy and affidavit, two cents; if above \$1, and not exceeding \$4, three cents; and if above \$4 five cents. R. S. O. 1887, c. 155, s. 24; 60 V. c. 15, Sched. A. (35, part).

24. All pawned goods shall be deemed forfeited, and may be sold at the expiration of one year from the time of pawning the same, exclusive of the day on which they were pawned. R. S. O. 1887, c. 155, s. 25.

When goods may be sold.

25. When the sum lent exceeds \$2 the goods shall be sold by the pawnbroker at public auction, and not otherwise. R. S. O. 1887, c. 155, s. 26.

When to be at public auction.

Before sale,
goods to be
exposed to
view and sale
advertised.

26. Before such public sale, the goods shall be exposed to public view, and a catalogue thereof published, containing the name and place of abode of the pawnbroker, a description of the goods separately, the month the goods were received in pawn, and the number of the pledge; and an advertisement giving notice of the intended sale, and containing the name and abode of the pawnbroker, and the month the goods were received in pawn, shall be inserted on two several days in some public newspaper, two days at least before the day of sale. R. S. O. 1887, c. 155, s. 27.

Penalty for
not properly
describing.

27. In case the goods are not described separately in the catalogue, the pawnbroker shall forfeit to the owner of the pledge not less than \$8 nor more than \$40, to be recovered in the same manner as fines imposed under section 8 of this Act. R. S. O. 1887, c. 155, s. 28.

Account of
sales to be
kept and
booked.

28. Every pawnbroker shall enter in a book, to be kept for that purpose, a just account of the sale of the goods by auction, expressing therein the day of the month the same were pledged, the name of the person who pledged the same respectively, the day when, and the money for which each pledge was sold, and the name and abode of the auctioneer. R. S. O. 1887, c. 155, s. 29.

Disposal of
surplus.

29. In case the goods have been sold for more than was due thereon, and in case of demand within three years after the sale, the overplus shall, after deducting the necessary costs and charges of the sale and catalogues, be paid to the person by whom or on whose account the goods were pawned. R. S. O. 1887, c. 155, s. 30.

Pawnor may
inspect
entries.

30. The person who pawned the goods, or the person for whom they were pawned, shall be permitted to inspect the entry made of the sale, on paying five cents for the inspection. R. S. O. 1887, c. 155, s. 31.

Consequence
of refusal to
permit inspec-
tion.

31. In case the pawnbroker refuses an inspection of the entry to the person who pawned the goods, or to his executor, administrator or assignee, upon the production of the letters testamentary, or letters of administration or the assignment, or in case the goods were sold for more than the sum entered in such book, or in case the pawnbroker did not make such entry, or did not *bona fide* sell the goods according to this Act, or refuses to pay the overplus on demand, he shall forfeit \$40, and treble the sum the goods were originally pawned for, to the person by whom or on whose account they were pawned, to be recovered as other fines under this Act; and if the forfeiture is not forthwith paid, the sum shall be levied by distress by warrant of the Justice before whom the conviction is had. R. S. O. 1887, c. 155, s. 32.

32. No pawnbroker having goods in pledge shall, either by himself or any other person for him, except at a public auction, purchase such goods during the time they remain in his custody as a pledge. R. S. O. 1887, c. 155, s. 33.

Pawnbrokers not to purchase goods except at public auction.

33. No pawnbroker shall—

Restrictions upon pawnbrokers.

1. Purchase, receive or take any goods in pledge, from any person who appears to be under the age of fifteen years, or to be intoxicated with liquor; nor

2. Purchase or take in pawn, pledge or exchange, the note or memorandum aforesaid of any other pawnbroker;

3. Employ any servant or other person under sixteen years of age to take any pledge;

4. Receive any goods by way of pawn, pledge or exchange, on any Fast or Thanksgiving Day appointed by authority, or on Sunday, nor on any other day, before eight o'clock in the morning, nor after eight o'clock in the evening, except on Saturday evenings, and the evenings preceding Good Friday and Christmas Day, at which last times the pawnbroker may keep his place of business open until ten o'clock in the evening. R. S. O. 1887, c. 155, s. 34.

34. In case it appears or is proved on oath before a Justice of the Peace, that the goods pawned were sold before the time limited, or have been embezzled or lost, or have become of less value than when pawned, through the neglect or wilful misbehaviour of the pawnbroker or his servants, the Justice shall award a reasonable satisfaction to the owner in respect of the damages suffered by him thereby. R. S. O. 1887, c. 155, s. 35.

Where goods lost or damaged.

35. In case the sum so awarded does not amount to the principal and profit due to the pawnbroker, the pawnor may pay or tender the balance; and on so doing, the Justice shall proceed as if the pawnor had paid or tendered the whole money due for principal and profit as aforesaid. R. S. O. 1887, c. 155, s. 36.

Terms of redemption of such goods.

36. In case the satisfaction allowed is equal to or exceeds the principal and profit as aforesaid, the pawnbroker shall deliver the goods so pledged to the owner without being paid anything for the principal or profit, and also the excess, if any, under a penalty of \$40, to be recovered as the penalties hereinbefore mentioned. R. S. O. 1887, c. 155, s. 37.

When damages awarded exceed pawnbroker's claim.

37. When the Justice thinks the production of any pawn book, note, voucher, memorandum, duplicate or other paper necessary, which is or ought to be in the hands, custody or power of any pawnbroker, he shall summon him to attend with the same, and the pawnbroker shall be bound to produce the same in the state in which it was when the pawn was received;

Pawnbrokers bound to produce pawn-books, etc.

and in case the pawnbroker neglects or refuses to attend or to produce the same in its true and perfect state, he shall, unless he shews good cause to the satisfaction of the justice, forfeit not less than \$20 nor more than \$40, to be levied and recovered as fines hereinbefore mentioned. R. S. O. 1887, c. 155, s. 38.

No fee on Justice's summons or warrant.

38. No fee shall be taken for any summons or warrant granted by any Justice under this Act, so far as the same relates to goods pawned, pledged or taken in exchange. R. S. O. 1887, c. 155, s. 42.

Penalties to belong to municipality.

39. All penalties recovered under this Act shall belong and be paid to the municipality in which the offence was committed. R. S. O. 1887, c. 155, s. 8, part.

Limitation of prosecutions.

40. No pawnbroker shall be liable to any prosecution before a Justice under this Act, unless information is given within twelve months next after the offence committed. R. S. O. 1887, c. 155, s. 39.

What Justice may act.

41. Unless where in this Act it is provided that the penalty for the offence may be recovered before two Justices of the Peace any prosecution for an offence under this Act may be had before any one Justice of the Peace having jurisdiction in the place where the offence was committed, but no person who has been convicted of fraud or felony shall prosecute or inform against any person for an offence against this Act. R. S. O. 1887, c. 155, s. 40.

Act to extend to executors, administrators, etc.

42. The provisions of this Act shall extend to the executors, administrators and assigns of every deceased pawnbroker, and also to the executors, administrators and assigns of the pawnor, but such executor, administrator or assign shall not be answerable for any penalty, personally or out of his own estate, unless forfeited by his own act. R. S. O. 1887, c. 155, s. 41.

Stay of execution pending appeal.

43. In case of an appeal from the judgment of a Justice or Justices under this Act, the execution of the judgment shall be suspended, upon the person convicted entering into a recognizance, at the time of the conviction, with two sureties, in double the sum he has been adjudged to pay, to prosecute the appeal with effect, and to be forthcoming to abide the judgment and determination of the Court of General Sessions, and to pay such costs as may be awarded at the Sessions. R. S. O. 1887, c. 155, s. 43.

If judgment affirmed.

44. In case the judgment is affirmed, the appellant shall immediately pay the sum adjudged to be forfeited, together with such costs as the Court awards, or in default thereof, he shall suffer the penalties inflicted by this Act upon persons who do not upon conviction pay the forfeitures hereby imposed. R. S. O. 1887, c. 155, s. 44.

[For procedure for recovery of penalties, etc., see Cap. 90.]

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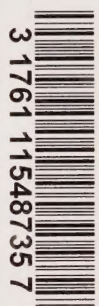
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